

**CHAPTER 1218****SUPPORT PAYMENT RECEIPT AND DISBURSEMENT***H.F. 2452*

**AN ACT** relating to the receipt and disbursement of support payments by transferring the collection and distribution of child support payment from the department of human services collection services center to the district court clerks, by making an exception, for federal social security payments, to the statutory requirements regarding allowable payees, by providing appropriations, and by providing effective dates.

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

Section 1. Section 252B.13, subsection 1, Code Supplement 1987, is amended to read as follows:

**252B.13 COLLECTION SERVICES CENTER.**

1. The department shall establish within the unit a collection services center for the receipt and disbursement of all support payments as defined in section 598.1 required pursuant to an order for which the unit is providing or has provided enforcement services on or after July 1, 1988 under this chapter. For purposes of this section, child support payments do not include attorney fees or court costs. The judicial department and the department of human services shall cooperate in the establishment of the center ~~which will receive and disburse support payments transferring or directing these judgments and orders for support and payments to the collection services center.~~

Sec. 2. Section 252B.14, Code Supplement 1987, is amended by striking the section and inserting in lieu thereof the following:

**252B.14 SUPPORT PAYMENTS – CLERK OF COURT – COLLECTION SERVICES CENTER.**

All support payments required pursuant to orders entered under this chapter and chapter 234, 252A, 252C, 598, or 675, or any other chapter shall be directed and processed as follows:

1. In cases for which services are being provided by the unit under this chapter, payment shall be directed to the collection services center established pursuant to section 252B.13. The department of human services shall notify the clerk of the district court if payment should be directed to the collection services center and the clerk shall provide the collection services center with a copy of the order or judgment.

2. In all other cases, payment shall be directed to the clerk of the district court for the use of the person for whom payments have been awarded.

Payments to persons other than the clerk of the district court and the collection services center do not satisfy the support obligations created by such orders or judgments, except as provided for trusts and social security income in section 252D.1, 598.22, or 598.23, or for tax refunds or rebates in section 602.8102, subsection 47.

Sec. 3. Section 252B.16, Code 1987, is amended by striking the section and inserting in lieu thereof the following:

**252B.16 CONVERSION – PROCESSING OF SUPPORT PAYMENTS.**

All judgments and orders for support and support payments which are currently collected and disbursed by the collection services center, other than those subject to section 252B.14, subsection 1, shall be transferred for further processing from the collection services center to the appropriate clerk of the district court on or before March 1, 1989. Support payments subject to section 252B.14, subsection 1, which are not currently collected and disbursed by the collection services center shall be transferred for further processing from each clerk of

the district court to the collection services center. The following procedure shall be used to transfer payments:

1. The judicial department and the department of human services shall mutually agree to dates to effectuate the transfer of cases. The department of human services shall cause to be published in the administrative bulletin a cumulative list of effective dates by county, once agreed upon and determined, which list shall be final and inclusive of all counties on the next date of publication subsequent to March 1, 1989.

2. In addition, for orders of support which must be transferred pursuant to this section, the department of human services shall notify the payee and the obligor as provided in subsections 3 and 4 that the obligor will be directed to pay future support payments to the clerk of the district court or to the collection services center as of the date provided in the notice. The notice under subsection 3 to the obligor is the equivalent of a court order directing the payment of the sums to the clerk of the district court or to the collection services center.

3. The notice of the change in the direction of payments shall be sent by ordinary mail to the payee's and the obligor's last known addresses or the persons shall be personally served with the notice in the manner provided for service of an original notice at least fifteen days prior to the date provided in the notice for the redirection of the payments. The notice shall include all of the following:

a. The name of the payee and, if different in whole or in part, the names of the persons to whom the obligation of support is owed by the obligor.

b. The name of the obligor.

c. The amount of the periodic support payment, the due dates of the payments, and any arrearages.

d. The beginning date for sending payments to the clerk of the district court or to the collection services center.

4. In addition to the notice required in subsection 3, the department shall provide notice to the payee and the obligor at the time of abstracting. The notice shall contain all information contained in the abstract and shall be given at least ten working days prior to any notice given pursuant to subsection 3 and shall be made in the same manner as allowed in subsection 3. A person receiving such notice shall have ten working days to file a written statement to the effect that information contained in the abstract is in whole or in part erroneous, and may request a correction of that information. The department shall provide the person with an opportunity for a review hearing to correct the information, unless the department corrects the information.

5. Any payments received after the case has been transferred under this section, shall be sent to the appropriate office within two working days of receipt of payments.

Sec. 4. Section 252D.1, subsection 3, Code 1987, is amended to read as follows:

3. If support payments ordered under section 234.39, section 252A.6, subsection 12, chapter 252C, section 598.21, or section 675.25, or under a comparable statute of a foreign jurisdiction, as certified to the child support recovery unit established in section 252B.2, are not paid to the clerk of the district court or the collection services center pursuant to section 598.22 and become delinquent in an amount equal to the payment for one month, upon application of a person entitled to receive the support payments, the child support recovery unit or the district court may enter an ex parte order notifying the person whose income is to be assigned, of the delinquent amount, of the amount of income or wages to be withheld, and of the procedure to file a motion to quash the order of assignment, and shall order an assignment of income and notify an employer, trustee, or other payor by certified mail of the order of the assignment of income requiring the withholding of specified sums to be deducted from the delinquent

person's periodic earnings, trust income, or other income sufficient to pay the support obligation and, except for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397 as provided in section 598.22, requiring the payment of such sums to the clerk of the district court or the collection services center. For trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the assignment of income shall require the payment of such sums to the alternate payee. The assignment of income is binding on an existing or future employer, trustee, or other payor ten days after the receipt of the order by certified mail. The amount of an assignment of income shall not exceed the amount specified in 15 U.S.C. § 1673(b). The assignment of income has priority over a garnishment or an assignment for a purpose other than the support of the dependents in the court order being enforced. The child support recovery unit or the district court, upon the application of any party, by ex parte order, may modify the assignment of income on the full payment of the delinquency or in an instance where the amount being withheld exceeds the amount specified in 15 U.S.C. § 1673(b), or may revoke the assignment of income upon the termination of parental rights, emancipation, death or majority of the child, or upon a change of custody.

Sec. 5. Section 252D.6, Code 1987, is amended to read as follows:

252D.6 ADMINISTRATION OF WAGE WITHHOLDING PROCEDURES.

The collection services center, established pursuant to section 252B.13, is and each clerk of the district court are designated as the public agency entities of the state to administer wage withholding in accordance with procedure specified for keeping adequate records to document, track and monitor support payments in accordance with Title IV-D of the United States federal Social Security Act.

Sec. 6. Section 598.22, unnumbered paragraph 1, Code 1987, is amended to read as follows:

This section applies to all initial or modified orders for support entered under this chapter, chapter 234, 252A, 252C, 675, or any other chapter of the Code. All orders or judgments for support entered on or before March 31, 1987, entered under chapter 234, 252A, 252C, or 675, or under this chapter or any other chapter which provide for temporary or permanent support payments shall direct the payment of those sums to the clerk of the district court or the collection services center in accordance with section 252B.14 for the use of the person for whom the payments have been awarded. All orders or judgments for support entered on or after April 1, 1987, shall direct the payment of those sums to the collection services center established pursuant to section 252B.13. Payments to persons other than the clerk of the district court and the collection services center do not satisfy the support obligations created by the orders or judgments, except as provided for trusts in section 252D.1, 598.23, or this section or governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, for tax refunds or rebates in section 602.8102, subsection 47, or for dependent benefits paid to the child support obligee as the result of disability benefits awarded to the child support obligor under the federal Social Security Act. For trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the assignment of income shall require the payment of such sums to the alternate payee in accordance with the federal Act.

Sec. 7. Section 598.22, unnumbered paragraph 3, Code 1987, is amended to read as follows:

An order or judgment entered by the court for temporary or permanent support or for an assignment shall be filed with the clerk. The orders have the same force and effect as judgments when entered in the judgment docket and lien index and are records open to the public. The clerk or the collection services center, as appropriate, shall disburse the payments received pursuant to the orders or judgments within ten two working days of the receipt of the payments. All moneys received or disbursed under this section shall be entered in a record book records kept by the clerk, or the collection services center, as appropriate, which shall

be open available to the public. The clerk or the collection services center shall not enter any moneys paid in the record book if not paid directly to the clerk or the center, as appropriate, except as provided for trusts in section 252D.1, 598.23 or this section or and federal social security disability payments in this section, and for tax refunds or rebates in section 602.8102, subsection 47.

Sec. 8. Section 598.22, unnumbered paragraph 5, Code 1987, is amended to read as follows:

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

Sec. 9. Section 598.23, subsection 2, paragraph a, Code 1987, is amended to read as follows:

a. Directs the defaulting party to assign trust income, or a sufficient amount in salary or wages due or to become due in the future from an employer or successor employers, to the clerk of the district court where the order or judgment was granted or the collection services center, except as otherwise provided in section 598.22 for certain trust income, social security disability payments, or tax refunds or rebates for the purpose of paying the sums in default as well as the payments to be made in the future. However, for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, payments shall be made to the alternate payee in accordance with the federal Act. If the assignment is of salary or wages due, the amount assigned shall not exceed the amount set forth in 15 U.S.C. § 1673(b)(1982) and the assignment order is binding upon the employer only for those amounts that represent child support and only upon receipt by the employer of a copy of the order, signed by the employee. For each payment deducted in compliance with the direction, the payor may deduct a sum not exceeding two dollars as a reimbursement for costs. Compliance by a payor with the court's order shall operate as a discharge of the payor's liability to the payee as to the affected portion of the payee's wages or trust income. An employer who dismisses an employee due to the entry of an assignment order commits a simple misdemeanor.

Sec. 10.

1. The department of human services shall actively seek to correct the credit rating of a person whose credit rating has been adversely affected due to incorrect information in the collection services center. The corrective action shall be taken by the department without charge, at the request of a person who believes they have been adversely affected. Action by the department may include personal contact with the credit reporting agency, insertion of written information into the record, and further tracking of incorrect credit information which was submitted to other parties by the credit reporting agency.

2. The center and the judicial department shall submit a report regarding the activities of the collection services center and the clerks of the district court to the fiscal committee of the legislative council, the legislative fiscal bureau, and the directors of the majority and minority legislative caucus staffs of the senate and house of representatives in each month following the enactment of this Act. The report shall contain all of the following information:

a. The progress made in verifying the data in the converted counties.

b. The time required between the time a payment is received and the time funds are distributed to a recipient.

c. The number, nature, and frequency of complaints regarding the operation of the center and the activities of the clerks of the district court including an analysis of the sources of the complaints.

3. As part of comprehensive legislative oversight, the legislative fiscal bureau, in consultation with the department of human services and the judicial department, shall submit a report to the general assembly on or before January 1, 1989, which evaluates the operation of the

center and the transition to the clerks of the district court during the period beginning May 1, 1988, and ending December 1, 1988. The report shall include all of the following:

a. An assessment of the impact of the center upon the payment of child support, including information regarding the dollar amount collected by the child support recovery unit and the dollar amount received by recipients.

b. An assessment of the effect of the center upon the percentage of payors who are making payments.

c. An assessment of the level of satisfaction with the services of the center and the clerks of the district court among payors and recipients.

d. An assessment of the cost-effectiveness of processing child support payments through the center in comparison with processing through the clerks of the district court.

e. A comparison of the collection services center and the clerks of the district court.

f. Other information relevant to the policy analysis of child support issues as requested by the legislative fiscal bureau.

Sec. 11. The judicial department, after consulting with the department of human services, shall appoint an advisory committee to advise the department of human services and the judicial department regarding modifications of the system for processing payments of support and to review complaints concerning this system. The committee shall be composed of five voting members, including one member representing the Iowa bar association, one member representing financial institutions, one member representing the title examiners, one member representing the payees, and one member representing the obligors. The judicial department and the department of human services shall also appoint one member each as ex officio nonvoting members representing the departments.

Sec. 12. Section 252B.15, Code 1987, is repealed.

Sec. 13. Any personnel in the state merit system of employment whose position is eliminated due to the deletion of positions as a result of this Act shall be placed on the outplacement list. The judicial department may provide information regarding positions available as a result of the transition from the collection services center to the judicial department.

Sec. 14. Section 252B.13, Code Supplement 1987, as amended by this Act, is repealed effective July 1, 1990.

Sec. 15. Notwithstanding the provisions of this Act to the contrary, all duties of the department of human services relating to the collection and disbursement of support payments by the collection services center shall be transferred from the collection services center to the appropriate clerk of the district court by July 1, 1990, if further action is not taken by the general assembly.

The judicial department and the department of human services shall mutually agree to dates to effectuate the transfer of cases. The department of human services shall cause to be published in the administrative bulletin a cumulative list of effective dates by county, once agreed upon and determined, which list shall be final and inclusive of all counties on the next date of publication subsequent to March 1, 1990. The court shall provide for the automated access of data and automated transfers of moneys by the child support recovery unit necessary for carrying out the unit's duties. The court shall also examine, in a plan for any computerized system, the potential for including the use of the electronic transmission of funds as a method of payment satisfying any support obligation.

Sec. 16. CHILD SUPPORT COLLECTION SERVICES FUND — APPROPRIATIONS.

1. A child support collection services fund is created in the office of the treasurer of state consisting of all revenues appropriated to the fund by the general assembly and other revenues and moneys as designated to be deposited in the fund.

2. As a condition, limitation, and qualification of the appropriations and transfers provided for in this subsection and subsections 3 and 4, there is transferred for the fiscal year beginning July 1, 1987, and ending June 30, 1988, notwithstanding sections 99D.17 and 99D.18, from funds paid to the state racing commission pursuant to section 99D.14, four hundred thousand (400,000) dollars, to be deposited in the child support collection services fund. Notwithstanding section 8.33, funds transferred pursuant to this subsection shall not revert but shall be subject to expenditure from the child support collection services fund during the fiscal year ending June 30, 1989.

3. As a condition, limitation, and qualification of the appropriations and transfers provided for in this subsection and subsections 2 and 4, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, there is appropriated from the general fund of the state, seven hundred thousand (700,000) dollars, and notwithstanding sections 99D.17 and 99D.18, there is transferred from funds paid to the state racing commission pursuant to section 99D.14, two hundred ninety-two thousand (292,000) dollars, to be deposited in the child support collection services fund.

4. As a condition, limitation, and qualification of the appropriations and transfers provided for in this subsection and subsections 2 and 3, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, there is appropriated from the child support collection services fund, five hundred one thousand (501,000) dollars, or so much thereof as is necessary, to the department of human services for the operation of the collection services center established pursuant to section 252B.13, and eight hundred ninety-one thousand (891,000) dollars, or so much thereof as is necessary, to the judicial department to be used for the receipt and disbursement of support payments as provided in chapter 252B.

*\*5. The general assembly declares that the entire one million three hundred ninety-two thousand (1,392,000) dollars appropriated in this section shall be spent as set out in this section. If the governor attempts to execute a purported item veto pursuant to Article III, Section 16 of the Constitution of the State of Iowa, this entire section and all appropriations in this section shall be null and void. Each subsection in this section is part of a unified plan and program and the attempted removal of any subsection will destroy the whole, and each subsection is a qualification, limitation, and condition of every other subsection and of all appropriations in this section.\**

Sec. 17. 1988 Iowa Acts, House File 209, is repealed.

Sec. 18. Sections 16 and 17 of this Act, being deemed of immediate importance, are effective upon enactment.

*Approved May 12, 1988, except the item which I hereby disapprove and which is designated as section 16, subsection 5 which is hereby bracketed in ink and initialed by me. My reasons for vetoing this item are delineated in the item veto message pertaining to this Act to the Secretary of State on this same date, a copy of which is attached hereto.*

TERRY E. BRANSTAD, Governor

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\*Item veto; see message at end of the Act

Dear Madam Secretary:

I hereby transmit House File 2452, an act relating to the receipt and disbursement of support payments by transferring the collection and distribution of child support payment from the department of human services collection services center to the district court clerks, by making an exception, for federal social security payments, to the statutory requirements regarding allowable payees, by providing appropriations, and by providing effective dates.

House File 2452 is approved with the following exception which I hereby disapprove.

I am unable to approve the item designated as Section 16, subsection 5, in its entirety.

House File 2452 deals with child support collection services and provides that the Department of Human Services shall continue to provide for centralized child support collection services for Aid to Dependent Children (ADC) recipients with the remaining collection services to be provided by the clerks of court. While I am concerned about the additional costs of this transfer, I believe this modification is understandable and not inappropriate, given the past startup problems associated with the state centralized collection service system.

However, subsection 5 of Section 16 is an attempt by the General Assembly to statutorily delimit the Governor's constitutional line item veto authority and, as a result, cannot be approved.

This subsection includes legislative *dicta* to the effect that individual appropriations included in the bill are considered part of the unified whole and, purportedly, cannot be subject to the Governor's line item veto authority. I have some concerns about the funding mechanism used in this bill — this ongoing program is funded with one-time Racing Commission dollars that had been set aside for another purpose. Nevertheless, I understand that the legislature had no other source of funds available to finance the transfer of a portion of the child support collection services to the judicial department and I have, therefore, approved those appropriation items.

However, when the legislature attempts to define the Constitution by statute, it is clearly exceeding its authority. We have a time-honored tradition in this country of judicial review. That means the court, not the legislature, decides what is constitutional and what is not. Indeed, in a recent decision, Junkins v. Branstad, Case No. 86-1740 (filed March 16, 1988), the court strongly reaffirmed the principle that it is the court, not the legislature, that decides the meaning of the Constitution.

Therefore, in subsection 5, the legislature is clearly invading the power of the judicial branch to construe the law and the power of the executive branch to carry it out.

For the above reasons, I hereby respectfully disapprove this item in accordance with Amendment 4 of the Amendments of 1968 to the Constitution of the State of Iowa. All other items in House File 2452 are hereby approved as of this date.

Sincerely,  
TERRY E. BRANSTAD, *Governor*