

c. A part-time employee may continue membership in a state group insurance plan without reapplication during the employee's employment during consecutive sessions of the general assembly. For the purpose of electing to become a member of the state health or medical service group insurance plan, a part-time employee of the general assembly has the status of a "new hire", full-time state employee when the employee is initially eligible or during the first subsequent enrollment change period.

d. (1) A part-time employee of the general assembly who elects membership in a state health or medical group insurance plan shall state each year whether the membership is to extend through the interim period between consecutive sessions of the general assembly.

(2) If the membership is to extend through the interim period the part-time employee shall authorize a payroll deduction for the period of session employment in an amount sufficient to cover the total annual premium and administrative costs for the plan selected payment of the total annual premium through direct payment of the monthly premium for the plan selected to the state group insurance plan provider.

(3) The part-time employee shall notify the finance officer within thirty-one days after the conclusion of the general assembly whether the person's decision to extend the membership through the interim period is confirmed. If the decision is rescinded, appropriate adjustments shall be made for amounts withheld in advance to cover premium payments. However, adjustments shall not be made for amounts withheld to cover administrative costs.

e. A member of a state health or medical group insurance plan pursuant to this subsection shall have the same rights upon final termination of employment as a part-time employee as are afforded full-time state employees excluded from collective bargaining as provided in chapter 20.

f. A part-time employee of the general assembly who elects membership in a state life insurance plan shall authorize payment of the premium through a total of two payments during each annual period made to the department of personnel on dates prescribed by the department.

Sec. 3.

This Act, being deemed of immediate importance, takes effect upon enactment, and is retroactively applicable to the payments of premiums of part-time employees of the general assembly who elected membership in a state group insurance plan on or after January 1, 1990.

Approved March 30, 1990

CHAPTER 1123

IMMEDIATE INCOME WITHHOLDING OF CHILD SUPPORT PAYMENTS

H.F. 2437

AN ACT relating to child support payments by providing for immediate withholding of an obligor's income and providing a penalty.

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

Section 1. NEW SECTION. 252D.8 PERSONS SUBJECT TO IMMEDIATE INCOME WITHHOLDING.

1. In a support order issued or modified on or after November 1, 1990, for which services are being provided by the child support recovery unit, the income of a support obligor is subject to withholding, on the effective date of the order, regardless of whether support payments by the obligor are in arrears. The child support recovery unit may enter an ex parte order for an immediate withholding of income or may directly implement immediate withholding of

income if authorizing language is contained in the court order. The income of the obligor is subject to such automatic withholding unless one of the following occurs:

a. One of the parties demonstrates and the court or child support recovery unit finds there is good cause not to require immediate withholding.

b. A written agreement is reached between both parties which provides for an alternative arrangement.

2. If the support payments have been assigned to the department of human services pursuant to chapter 234 or 239, or a comparable statute of another jurisdiction, the department shall be considered a party to the support order, and a written agreement pursuant to this section to waive immediate withholding is void unless approved by the child support recovery unit. Any existing agreement is void at the time an assignment of support to the state is made.

3. For an order not requiring immediate withholding, income of an obligor is subject to immediate withholding, without regard to whether there is an arrearage, on the earliest of the following:

a. The date the obligor requests that the withholding begin.

b. The date the custodial parent or party to the proceeding requests that the withholding begin, if the child support recovery unit approves the request.

Sec. 2. NEW SECTION. 252D.9 SUMS SUBJECT TO IMMEDIATE WITHHOLDING.

Specified sums shall be deducted from the obligor's earnings, trust income, or other income sufficient to pay the support obligation. The amount withheld pursuant to an assignment of income shall not exceed the amount specified in 15 U.S.C. § 1673(b).

Sec. 3. NEW SECTION. 252D.10 NOTICE OF ASSIGNMENT.

The notice requirements of section 252D.3 do not apply to this subchapter. An order for support entered after November 1, 1990, shall contain the notice of immediate income withholding. However, this subchapter is sufficient notice for implementation of immediate income withholding without any further notice.

Sec. 4. NEW SECTION. 252D.11 MOTION TO QUASH.

1. Grounds for contesting a withholding order under this subchapter are any of the following:

a. A mistake of fact, which for purposes of this section means an error in the amount of current or overdue support or the identity of the alleged obligor.

b. The conditions for exception to immediate income withholding as defined under section 252D.8 existed at the time of implementation of the withholding.

2. The clerk of the district court shall schedule a hearing on the motion to quash for a time not later than seven days after the filing of the motion to quash and the notice of the motion to quash. The clerk shall mail to the parties copies of the motion to quash, the notice of the motion to quash, and the order scheduling the hearing.

3. The payor shall withhold and transmit the amount specified in 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. 5. NEW SECTION. 252D.12 NOTICE TO EMPLOYER OR INCOME PAYOR.

A notice of immediate income withholding shall be sent to the employer, trustee, or other payor by certified mail. The assignment of income is binding on an existing or future employer, trustee, or other payor ten days after the receipt of the notice by certified mail.

Sec. 6. NEW SECTION. 252D.13 PRIORITY.

The assignment of income has priority over a garnishment or an assignment for a purpose other than support of the dependents in the court order being enforced.

Sec. 7. NEW SECTION. 252D.14 MODIFICATION OR REVOCATION OF IMMEDIATE INCOME WITHHOLDING.

The child support recovery unit or the district court, upon the application of any party, may modify the assignment of income by ex parte order if current child support has terminated,

or may revoke the assignment of income upon the termination of parental rights, emancipation, death, majority of the child, or upon change of custody.

Sec. 8. NEW SECTION. 252D.18 DUTIES OF THE PAYOR – LIABILITY.

1. The employer, trustee, or other payor who receives an order of assignment by certified mail pursuant to section 252D.1, subsection 3, or subchapter II, shall deliver, on the next working day, a copy of the order to the person named in the order. The payor may deduct not more than two dollars from each payment from the employee's wages as a reimbursement for the payor's costs relating to the assignment. The payor's compliance with the order of assignment satisfies the payor's obligation to the person for the amount of income withheld and transmitted to the clerk of the district court.

2. An employer who willfully discharges an employee or refuses to hire a person because of the entry of an order of assignment under this chapter is guilty of a simple misdemeanor.

3. An employer, trustee, or other payor who receives an order of assignment pursuant to section 252D.1, subsection 2, or subchapter II, is liable for the amount which the employer, trustee, or other payor willfully fails to withhold from amounts due the person named in the order, together with costs, interest, and reasonable attorney fees related to the collection of the amounts due from the employer, trustee, or other payor.

Sec. 9. NEW SECTION. 252D.19 OTHER REMEDIES.

The remedies provided in this chapter do not exclude the use of other civil or criminal remedies in enforcing support obligations.

Sec. 10. NEW SECTION. 252D.20 ADMINISTRATION OF INCOME WITHHOLDING PROCEDURES.

The child support recovery unit is designated as the entity of the state to administer income withholding in accordance with the procedures specified for keeping adequate records to document, track, and monitor support payments on cases subject to Title IV-D of the federal Social Security Act. The clerks of the district court are designated as the entities for administering income withholding on cases which are not subject to Title IV-D.

Sec. 11. NEW SECTION. 252D.21 PENALTY FOR MISREPRESENTATION.

A person who knowingly makes a false statement or representation of a material fact or knowingly fails to disclose a material fact in order to secure an assignment of income against another person and to receive support payments or additional support payments pursuant to this chapter, is guilty, upon conviction, of a serious misdemeanor.

Sec. 12. NEW SECTION. 252D.22 RULES.

The department shall adopt the administrative rules necessary to implement the provisions of this chapter as they pertain to the operations of the child support recovery unit.

Sec. 13. Section 598.22, Code 1989, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. An assignment of periodic income may also be entered under the terms and conditions of chapter 252D.

Sec. 14. Sections 252D.4 through 252D.7, Code 1989, are repealed.

Sec. 15. CODIFICATION.

1. The Code editor shall entitle chapter 252D as "Child Support Payments – Assignment of Income and Immediate Income Withholding."

2. The Code editor shall codify sections 252D.1 through 252D.3 as subchapter I, entitled "Delinquent Support Payments – Assignment of Income."

3. The Code editor shall codify new sections 252D.8 through 252D.14 as subchapter II entitled "Immediate Income Withholding."

4. The Code editor shall codify sections 252D.18 through 252D.22 as subchapter III, entitled "General Provisions."

5. If necessary or appropriate, the Code editor may codify and entitle this Act in a different manner than prescribed by this section.

Approved March 30, 1990

CHAPTER 1124

CRIMINAL AND JUVENILE JUSTICE PLANNING

H.F. 2468

AN ACT relating to the establishment of the division of criminal justice planning and providing an effective date.

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

Section 1. Section 601K.131, Code 1989, is amended to read as follows:
601K.131 DEFINITIONS.

For the purpose of this subchapter, unless the context otherwise requires:

1. "Council" means the criminal and juvenile justice planning advisory council.
2. "Division" means the division of criminal and juvenile justice planning.
3. "Administrator" means the administrator of the division of criminal and juvenile justice planning.

Sec. 2. Section 601K.132, Code 1989, is amended to read as follows:

601K.132 COUNCIL ESTABLISHED — TERMS — COMPENSATION.

A criminal and juvenile justice planning advisory council is established consisting of ~~thirteen~~ twenty-two members. The governor shall appoint seven members each for a four-year term beginning and ending as provided in section 69.19 and subject to confirmation by the senate as follows:

1. Three persons, each of whom is a county supervisor, county sheriff, mayor, city chief of police, or county attorney.
2. Two persons who represent the general public and are not employed in any law enforcement, judicial, or corrections capacity.
3. Two persons who are knowledgeable about Iowa's juvenile justice system.

The departments of ~~human rights~~, human services, corrections, and public safety, the division on the status of blacks, the division of substance abuse of the Iowa department of public health, the chairperson of the board of parole, the attorney general, the state public defender, and the chief justice of the supreme court shall each designate a person to serve on the council.

The chief justice of the supreme court shall appoint two additional members currently serving as district judges. Two members of the senate and two members of the house of representatives shall be ex officio members and shall be appointed by the majority and minority leaders of the senate and the speaker and minority leader of the house of representatives pursuant to section 69.16. Members appointed pursuant to this paragraph shall serve for four-year terms beginning and ending as provided in section 69.19 unless the member ceases to serve as a district court judge or as a member of the senate or of the house of representatives.

Members of the council shall receive reimbursement from the state for actual and necessary expenses incurred in the performance of their official duties. Members may also be eligible to receive compensation as provided in section 7E.6.

Sec. 3. Section 601K.133, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Maintain an Iowa correctional policy project as provided in section 601K.137.