

**CHAPTER 1101**  
**COLLECTION OF CHILD SUPPORT**  
*H.F. 2407*

**AN ACT** relating to the collection of child support, including levies against the accounts of certain child support obligors and including affecting of the professional licensure or certification status of an obligor held in contempt of court.

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

**Section 1. NEW SECTION. 252I.1 DEFINITIONS.**

As used in this chapter, unless the context otherwise requires:

1. "Account" means "account" as defined in section 524.103, "share account or shares" as defined in section 584.102, the savings or deposits of a member received or being held by a credit union, or certificates of deposit. "Account" also includes deposits held by an agent, a broker-dealer, or an issuer as defined in section 502.102. However, "account" does not include amounts held by a financial institution as collateral for loans extended by the financial institution.
2. "Bank" means "bank", "insured bank", "private bank", and "state bank" as defined in section 524.103.
3. "Court order" means "court order" as defined in section 252C.1.
4. "Credit union" means "credit union" as defined in section 533.51.
5. "Financial institution" includes a bank, credit union, or savings and loan association. "Financial institution" also includes an institution which holds deposits for an agent, broker-dealer, or an issuer as defined in section 502.102.
6. "Obligor" means a person who has been ordered by a court or administrative authority to pay support.
7. "Savings and loan association" means "association" as defined in section 534.102.
8. "Support" or "support payments" means "support" or "support payments" as defined in section 252D.1.
9. "Unit" or "child support recovery unit" means the child support recovery unit created in section 252B.2.
10. "Working days" means only Monday, Tuesday, Wednesday, Thursday, and Friday, but excluding the holidays specified in section 1C.2, subsections 1 through 9.

**Sec. 2. NEW SECTION. 252I.2 PURPOSE AND USE.**

1. Notwithstanding other statutory provisions which provide for the execution, attachment, or levy against accounts, the unit may utilize the process established in this chapter to collect delinquent support payments provided that any exemptions or exceptions which specifically apply to enforcement of support obligations pursuant to other statutory provisions also apply to this chapter.

2. An obligor is subject to the provisions of this chapter if the obligor's support obligation is being enforced by the child support recovery unit, and if the support payments ordered under chapter 232, 234, 252A, 252C, 252D, 252E, 252F, 598, 600B, or any other applicable chapter, or under a comparable statute of a foreign jurisdiction, as certified to the child support recovery unit, 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 support payment for one month.

3. Any amount forwarded by a financial institution under this chapter shall not exceed the amounts specified in 15 U.S.C. § 1673(b) and shall not exceed the delinquent or accrued amount of support owed by the obligor.

**Sec. 3. NEW SECTION. 252I.3 INITIAL NOTICE TO OBLIGOR.**

The unit may proceed under this chapter only if notice has been provided to the obligor in one of the following manners:

1. The obligor is provided notice of the provisions of this chapter in the court order establishing the support obligation. The unit or district court may include language in any new or modified support order issued on or after July 1, 1994, notifying the obligor that the obligor is subject to the provisions of this chapter.

2. The unit may send a notice by regular mail to the last known address of the obligor, notifying the obligor that the obligor is subject to the provisions of this chapter, with proof of service completed according to rule of civil procedure 82.

**Sec. 4. NEW SECTION. 252I.4 VERIFICATION OF ACCOUNTS AND IMMUNITY FROM LIABILITY.**

1. The unit may contact a financial institution to obtain verification of the account number, the names and social security numbers listed for the account, and the account balance of any account held by an obligor. Contact with a financial institution may be by telephone or by written communication. The financial institution may require positive voice recognition and may require the telephone number of the authorized person from the unit before releasing an obligor's account information by telephone.

2. The financial institution is immune from any liability, civil or criminal, which might otherwise be incurred or imposed for any information released by the financial institution to the unit pursuant to this chapter.

3. The financial institution or the unit is not liable for the cost of any early withdrawal penalty of an obligor's certificate of deposit.

**Sec. 5. NEW SECTION. 252I.5 ADMINISTRATIVE LEVY — NOTICE TO FINANCIAL INSTITUTION.**

1. If an obligor is subject to this chapter under section 252I.2, the unit may initiate an administrative action to levy against the accounts of the obligor. If notice has previously been provided pursuant to section 252I.3, further notice is not required.

2. The unit may send a notice to the financial institution with which the account is placed, directing that the financial institution forward all or a portion of the moneys in the obligor's account or accounts to the collection services center established pursuant to chapter 252B. The notice shall be sent by regular mail, with proof of service completed according to rule of civil procedure 82.

3. The notice to the financial institution shall contain all of the following:

a. The name and social security number of the obligor.

b. A statement that the obligor is believed to have one or more accounts at the financial institution.

c. A statement that pursuant to the provisions of this chapter, the obligor's accounts are subject to seizure and the financial institution is authorized and required to forward moneys to the collection services center.

d. The maximum amount that shall be forwarded by the financial institution, which shall not exceed the delinquent or accrued amount of support owed by the obligor.

e. The prescribed time frame which the financial institution must meet in forwarding amounts.

f. The address of the collection services center and the collection services center account number.

g. A telephone number, address, and contact name of the child support recovery unit contact initiating the action.

**Sec. 6. NEW SECTION. 252I.6 ADMINISTRATIVE LEVY — NOTICE TO SUPPORT OBLIGOR.**

1. The unit may administratively initiate an action to seize accounts of an obligor who is subject to this chapter under section 252I.2.

2. The unit shall notify an obligor subject to this chapter, and any other party known to have an interest in the account, of the action. The notice shall contain all of the following:

- a. The name and social security number of the obligor.
  - b. A statement that the obligor is believed to have one or more accounts at the financial institution.
  - c. A statement that pursuant to the provisions of this chapter, the obligor's accounts are subject to seizure and the financial institution is authorized and required to forward moneys to the collection services center.
  - d. The maximum amount to be forwarded by the financial institution, which shall not exceed the delinquent or accrued amount of support owed by the obligor.
  - e. The prescribed time frames within which the financial institution must comply.
  - f. A statement that any challenge to the action shall be in writing and shall be received by the child support recovery unit within ten days of the date of the notice to the obligor.
  - g. The address of the collection services center and the collection services center account number.
  - h. A telephone number, address, and contact name for the child support recovery unit contact initiating the action.
3. The unit shall forward the notice to the obligor by regular mail within two working days of sending the notice to the financial institution pursuant to section 252I.5. Proof of service shall be completed according to rule of civil procedure 82.

**Sec. 7. NEW SECTION. 252I.7 RESPONSIBILITIES OF FINANCIAL INSTITUTION.**

Upon receipt of a notice under section 252I.5, the financial institution shall do all of the following:

1. Immediately encumber funds in all accounts in which the obligor has an interest to the extent of the debt indicated in the notice from the unit.
2. No sooner than fifteen days, and no later than twenty days from the date the financial institution receives the notice under section 252I.5, unless notified by the unit of a challenge by the obligor or an account holder of interest, the financial institution shall forward the moneys encumbered to the collection services center with the obligor's name and social security number, collection services center account number, and any other information required in the notice.
3. The financial institution may assess a fee against the obligor, not to exceed ten dollars, for forwarding of moneys to the collection services center. This fee is in addition to the amount of support due. In the event that there are insufficient moneys to cover the fee and the support amount due, the institution may deduct the fee amount prior to forwarding moneys to the collection services center and the amount credited to the support obligation shall be reduced by the fee amount.

**Sec. 8. NEW SECTION. 252I.8 CHALLENGES TO ACTION.**

1. Challenges under this chapter may be initiated only by an obligor or by an account holder of interest. Actions initiated by the unit under this chapter are not subject to chapter 17A, and resulting court hearings following certification shall be an original hearing before the district court.
2. The person challenging the action shall submit a written challenge to the person identified as the contact for the unit in the notice, within ten working days of the date of the notice.
3. The unit shall, upon receipt of a written challenge, review the facts of the case with the challenging party. Only a mistake of fact, including but not limited to, a mistake in the identity of the obligor or a mistake in the amount of delinquent support due shall be considered as a reason to dismiss or modify the proceeding.
4. If the unit determines that a mistake of fact has occurred the unit shall proceed as follows:
  - a. If a mistake in identity has occurred or the obligor is not delinquent in an amount equal to the payment for one month, the unit shall notify the financial institution that the administrative levy has been released. The unit shall provide a copy of the notice to the support obligor by regular mail.
  - b. If the obligor is delinquent, but the amount of the delinquency is less than the amount indicated in the notice, the unit shall notify the financial institution of the revised amount with

a copy of the notice and issue a copy to the obligor or forward a copy to the obligor by regular mail. Upon written receipt of instructions from the unit, the financial institution shall release the funds in excess of the revised amount to the obligor and the moneys in the amount of the debt shall be processed according to section 252I.7.

5. If the unit finds no mistake of fact, the unit shall provide a notice to that effect to the challenging party by regular mail. Upon written request of the challenging party, the unit shall request a hearing before the district court in the county in which the underlying support order is filed.

a. The financial institution shall encumber moneys if the child support recovery unit notifies the financial institution to do so.

b. The clerk of the district court shall schedule a hearing upon the request by the unit for a time not later than ten calendar days after the filing of the request for hearing. The clerk shall mail copies of the request for hearing and the order scheduling the hearing to the unit and to all account holders of interest.

c. If the court finds that there is a mistake of identity or that the obligor does not owe the delinquent support, the unit shall notify the financial institution that the administrative levy has been released.

d. If the court finds that the obligor has an interest in the account, and the amount of support due was incorrectly overstated, the unit shall notify the financial institution to release the excess moneys to the obligor and remit the remaining moneys in the amount of the debt to the collection services center for disbursement to the appropriate recipient.

e. If the court finds that the obligor has an interest in the account, and the amount of support due is correct, the financial institution shall forward the moneys to the collection services center for disbursement to the appropriate recipient.

f. If the obligor or any other party known to have an interest in the account fails to appear at the hearing, the court may find the challenging party in default, shall ratify the administrative levy, if valid upon its face, and shall enter an order directing the financial institution to release the moneys to the unit.

g. Issues related to visitation, custody, or other provisions not related to levies against accounts are not grounds for a hearing under this chapter.

h. Support orders shall not be modified under a challenge pursuant to this section.

i. Any findings in the challenge of an administrative levy related to the amount of the accruing or accrued support obligation do not modify the underlying support order.

j. An order entered under this chapter for a levy against an account of a support obligor has priority over a levy for a purpose other than the support of the dependents in the court order being enforced.

6. The support obligor may withdraw the request for challenge by submitting a written withdrawal to the person identified as the contact for the unit in the notice or the unit may withdraw the administrative levy at any time prior to the court hearing and provide notice of the withdrawal to the obligor and any account holder of interest and to the financial institution, by regular mail.

7. If the financial institution has forwarded moneys to the collection services center and has deducted a fee from the moneys of the account, or if any additional fees or costs are levied against the account, and all funds are subsequently refunded to the account due to a mistake of fact or ruling of the court, the child support recovery unit shall reimburse the account for any fees assessed by the financial institution. If the mistake of fact is a mistake in the amount of support due and any portion of the moneys is retained as support payments, however, the unit is not required to reimburse the account for any fees or costs levied against the account. Additionally, for the purposes of reimbursement to the account for any fees or costs, each certificate of deposit is considered a separate account.

Sec. 9. Section 598.23A, subsection 2, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

If a person is cited for contempt, the court may do either any of the following:

Sec. 10. Section 598.23A, subsection 2, Code Supplement 1993, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** c. Enjoin the contemnor from engaging in the exercise of any activity governed by a license.

(1) If the court determines that an extreme hardship will result from the injunction, the court order may allow the contemnor to engage in the exercise of the activity governed by the license, subject to terms established by the court, which shall include, at a minimum, that the contemnor enter into an agreement to satisfy all obligations owing over a period of time satisfactory to the court.

(2) If the court order allows for the exercise of the activity governed by a license pending satisfaction of an obligation over time, and the contemnor fails to comply with the agreement, the contemnor shall be provided an opportunity for hearing, within ten days, to demonstrate why an order enjoining the contemnor from engaging in the exercise of any activity governed by a license should not be issued.

(3) The court order under this paragraph shall be vacated only after verification is provided to the court that the contemnor has satisfied all accrued obligations owing and that the contemnor has satisfied all terms established by the court and when the person entitled to receive support payments, or the child support recovery unit when the unit is providing enforcement services pursuant to chapter 252B, has been provided ten days' notice and an opportunity to object.

(4) As used in this paragraph, "license" means any license or renewal of a license, certification, or registration issued by an agency to a person to conduct a trade or business, including but not limited to a license to practice a profession or occupation or to operate a commercial motor vehicle.

Approved April 19, 1994

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## CHAPTER 1102

### DRIVER EDUCATION AND MOTORCYCLE RIDER EDUCATION

#### *H.F. 181*

**AN ACT** relating to motorcycle rider and driver's education.

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

Section 1. Section 321.178, subsection 1, unnumbered paragraph 1, Code 1993, is amended to read as follows:

An approved driver education course as programmed by the department of education shall consist of at least thirty clock hours of classroom instruction, and six or more clock hours of laboratory instruction of which at least three clock hours shall consist of street or highway driving. ~~An approved course~~ Classroom instruction shall include a all of the following:

a. A minimum of four hours of classroom instruction concerning substance abuse as part of its curriculum.

b. A minimum of twenty minutes of instruction concerning railroad crossing safety.

c. Instruction relating to becoming an organ donor under the uniform anatomical gift Act.

**PARAGRAPH DIVIDED.** After the student has completed three clock hours of street or highway driving and has demonstrated to the instructor an ability to properly operate a motor vehicle and upon written request of a parent or guardian, the instructor may waive the remaining required laboratory instruction.