

to persons with brain injury in a manner which would require provision of county funding relating to the services or matching of the federal funding. However, the department may propose or implement such a waiver in a manner which would permit the optional financial participation of counties.

Approved May 11, 1994

## CHAPTER 1171

### CHILD SUPPORT, PATERNITY, AND RELATED MATTERS

*H.F. 2410*

**AN ACT** relating to child support recovery including paternity establishment provisions, making a penalty applicable, and providing effective date and retroactive applicability provisions.

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

Section 1. Section 85.59, unnumbered paragraph 2, Code Supplement 1993, is amended to read as follows:

For purposes of this section, "inmate" includes a person who is performing unpaid community service under the direction of the district court, board of parole, or judicial district department of correctional services, or an inmate providing services pursuant to a chapter 28E agreement entered into pursuant to section 904.703, or who is performing a work assignment of value to the state or to the public under chapter 232. For purposes of this section, "unpaid community service under the direction of the district court" includes but is not limited to community service ordered and performed pursuant to section 598.23A.

Sec. 2. Section 144.13, subsection 1, paragraph e, Code Supplement 1993, is amended to read as follows:

e. In the case of a child born out of wedlock, if an affidavit of paternity is obtained directly from the county registrar and is filed pursuant to section 252A.3A shall be filed directly with the county registrar shall forward the original affidavit to the state registrar.

Sec. 3. Section 144.13, subsection 4, Code Supplement 1993, is amended to read as follows:

4. The division shall make all of the following available to the child support recovery unit, upon request, a:

- a. A copy of a child's birth certificate, the
- b. The social security numbers of the mother and the father, and a
- c. A copy of the affidavit of paternity if provided filed pursuant to section 252A.3A.
- d. Information, other than information for medical and health use only, identified on a child's birth certificate or on an affidavit of paternity filed pursuant to section 252A.3A. The information may be provided as mutually agreed upon by the division and the child support recovery unit, including by automated exchange.

Sec. 4. Section 144.40, Code Supplement 1993, is amended to read as follows:

144.40 PATERNITY OF CHILDREN OUT OF WEDLOCK — BIRTH CERTIFICATES.

Upon request and receipt of a sworn acknowledgment of paternity of a child born out of wedlock signed by both parents including an affidavit of paternity completed and filed pursuant to section 252A.3A, or a certified copy or notification by the clerk of court of a court or administrative order establishing paternity, the state registrar shall amend a certificate of birth to show paternity if paternity is not shown on the birth certificate. Upon written request of the parents, the surname of the child may be changed on the certificate to that of the father. The certificate shall not be marked "amended".

Sec. 5. Section 144.43, subsection 1, Code 1993, is amended to read as follows:

1. A record of birth if that birth did not occur out of wedlock.

Sec. 6. Section 144.44, Code 1993, is amended to read as follows:

144.44 PERMITS FOR RESEARCH.

The department may permit access to vital statistics by professional genealogists and historians, and may authorize the disclosure of data contained in vital statistics records when deemed essential for bona fide research purposes which are not for private gain. ~~Information in vital statistics records indicating that a birth occurred out of wedlock shall not be disclosed except as provided by regulation or upon order of a district court.~~ The department shall adopt rules which establish the parameters for access to and authorized disclosure of vital statistics and data contained in vital statistics records relating to birth and adoption records under this section.

Sec. 7. Section 232.4, Code 1993, is amended to read as follows:

232.4 JURISDICTION – SUPPORT OBLIGATION.

Notwithstanding any other provision of this chapter, and for the purposes of establishing a parental liability obligation for a child under the jurisdiction of the juvenile court, ~~the court shall establish a support obligation shall be established pursuant to section 234.39 or the department shall establish a support obligation pursuant to chapter 252C, provided that a support obligation has not previously been established under an order of the district court or chapter 252C.~~

Sec. 8. Section 234.39, subsection 1, Code 1993, is amended to read as follows:

1. For an individual to whom section 234.35, subsection 1, is applicable, a dispositional order of the juvenile court requiring the provision of foster care, or an administrative order entered pursuant to chapter 252C, shall establish, after notice and a reasonable opportunity to be heard is provided to a parent or guardian, the amount of the parent's or guardian's support obligation for the cost of foster care provided by the department, if a support obligation has not previously been established under an order of the district court or court of comparable jurisdiction in another state or pursuant to chapter 252C. The court, or the department of human services in establishing support by administrative order, shall establish the amount of the parent's or guardian's support obligation and the amount of support debt accrued and accruing in accordance with the child support guidelines prescribed under section 598.21, subsection 4. However, the court, or the department of human services in establishing support by administrative order, may deviate from the prescribed obligation after considering a recommendation by the department for expenses related to goals and objectives of a case permanency plan as defined under section 237.15, and upon written findings of fact which specify the reason for deviation and the prescribed guidelines amount. Any order for support shall direct the payment of the support obligation to the collection services center for the use of the department's foster care recovery unit. The order shall be filed with the clerk of the district court in which the responsible parent or guardian resides and has the same force and effect as a judgment when entered in the judgment docket and lien index. The collection services center shall disburse the payments pursuant to the order and record the disbursements. If payments are not made as ordered, the child support recovery unit may certify a default to the court and the court may, on its own motion, proceed under section 598.22 or 598.23 or the child support recovery unit may enforce the judgment as allowed by law. An order entered under this subsection may be modified only in accordance with the guidelines prescribed under section 598.21, subsection 8.

Sec. 9. NEW SECTION. 249A.4A GARNISHMENT.

When payment is made by the department for medical care or expenses through the medical assistance program on behalf of a recipient, the department may garnish the wages, salary, or other compensation of the person obligated to pay child support or may withhold amounts pursuant to chapter 252D from the income of the person obligated to pay support, and shall

withhold amounts from state income tax refunds of a person obligated to pay support, to the extent necessary to reimburse the department for expenditures for medical care or expenses on behalf of a recipient if all of the following conditions apply:

1. The person is required by court or administrative order to provide medical support to a recipient.

2. The person has received payment from a third party for the costs of medical assistance to the recipient and has not used the payments to reimburse the costs of medical care or expenses.

Sec. 10. Section 252A.2, Code Supplement 1993, is amended by adding the following new subsections before subsection 1 and renumbering the subsequent subsections:

NEW SUBSECTION. 1. "Birthing hospital" means a private or public hospital licensed pursuant to chapter 135B that has a licensed obstetric unit or is licensed to provide obstetric services, or a licensed birthing center associated with a hospital.

NEW SUBSECTION. 1A. "Birth center" means birth center as defined in section 135G.2.

Sec. 11. Section 252A.2, Code Supplement 1993, is amended by adding the following new subsections:

NEW SUBSECTION. 4A. "Institution" means a birthing hospital or birth center.

NEW SUBSECTION. 6A. "Putative father" means a man who is alleged to be or who claims to be the biological father of a child born to a woman to whom the man is not married at the time of the birth of the child.

Sec. 12. Section 252A.3, subsection 9, Code Supplement 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. By establishment of paternity in a foreign jurisdiction in any manner provided for by the laws of that jurisdiction.

Sec. 13. Section 252A.3A, Code Supplement 1993, is amended by striking the section and inserting in lieu thereof the following:

252A.3A ESTABLISHING PATERNITY BY AFFIDAVIT.

1. The paternity of a child born out of wedlock may be legally established by the completion and filing of an affidavit of paternity only as provided by this section.

2. Establishment of paternity by affidavit under this section may be used to establish paternity of the following children:

a. The child of a woman who was unmarried at the time of conception and birth of the child.

b. The child of a woman who is married at the time of conception or birth of the child if a court of competent jurisdiction has determined that the individual to whom the mother was married at that time is not the father of the child.

3. a. Prior to or at the time of completion of an affidavit of paternity, written information about paternity establishment, developed by the child support recovery unit created in section 252B.2, shall be provided to the mother and putative father.

b. The information provided shall include a description of parental rights and responsibilities, including the duty to provide financial support for the child, and the benefits of establishing paternity.

c. Copies of the written information shall be made available by the child support recovery unit or the Iowa department of public health to those entities where an affidavit of paternity may be obtained as provided under subsection 4.

4. a. The affidavit of paternity form developed and used by the Iowa department of public health is the only affidavit of paternity form recognized for the purpose of establishing paternity under this section.

b. The form shall be available from the state registrar, each county registrar, the child support recovery unit, and any institution in the state.

c. The Iowa department of public health shall make copies of the form available to the entities identified in paragraph "b" for distribution.

5. A completed affidavit of paternity shall contain or have attached all of the following:

- a. A statement by the mother consenting to the assertion of paternity and the identity of the father and acknowledging either of the following:

- (1) That the mother was unmarried at the time of conception and birth of the child.

- (2) That the mother was married at the time of conception or birth of the child, and that a court order has been entered ruling that the individual to whom the mother was married at that time is not the father of the child.

- b. If paragraph "a", subparagraph (2), is applicable, a certified copy of the filed order ruling that the husband is not the father of the child.

- c. A statement from the putative father that the putative father is the father of the child.

- d. The name of the child at birth and the child's birth date.

- e. The signatures of the mother and putative father.

- f. The social security numbers of the mother and putative father.

- g. The addresses of the mother and putative father, as available.

- h. The signature of a notary public attesting to the identities of the parties signing the affidavit of paternity.

- i. Instructions for filing the affidavit.

6. A completed affidavit of paternity shall be filed with the state registrar. However, if the affidavit of paternity is obtained directly from the county registrar, the completed affidavit may be filed with the county registrar who shall forward the original affidavit to the state registrar. For the purposes of legal establishment of paternity under this section, paternity is legally established only upon filing of the affidavit with the state registrar.

7. The state registrar shall make copies of affidavits of paternity and identifying information from the affidavits filed pursuant to this section available to the child support recovery unit created under section 252B.2 in accordance with section 144.13, subsection 4.

8. An affidavit of paternity completed and filed pursuant to this section has all of the following effects:

- a. Is admissible as evidence of paternity.

- b. Has the same legal force and effect as a judicial determination of paternity.

- c. Serves as a basis for seeking child or medical support without further determination of paternity.

9. All institutions in the state shall provide the following services with respect to any newborn child born out of wedlock:

- a. Prior to discharge of the newborn from the institution, the institution where the birth occurs shall provide the mother and, if present, the putative father, with all of the following:

- (1) Written information about establishment of paternity pursuant to subsection 3.

- (2) An affidavit of paternity form.

- (3) An opportunity for consultation with the staff of the institution regarding the written information provided under subparagraph (1).

- (4) An opportunity to complete an affidavit of paternity at the institution, as provided in this section.

- b. The institution shall file any affidavit of paternity completed at the institution with the state registrar, pursuant to subsection 6, accompanied by a copy of the child's birth certificate, within ten days of the birth of the child.

10. a. An institution may be reimbursed by the child support recovery unit created in section 252B.2 for providing the services described under subsection 9, or may provide the services at no cost.

- b. An institution electing reimbursement shall enter into a written agreement with the child support recovery unit for this purpose.

- c. An institution entering into an agreement for reimbursement shall assist the parents of a child born out of wedlock in completing and filing an affidavit of paternity.

- d. Reimbursement shall be based only on the number of affidavits completed in compliance with this section and submitted to the state registrar during the duration of the written agreement with the child support recovery unit.

e. The reimbursement rate is twenty dollars for each completed affidavit filed with the state registrar.

Sec. 14. NEW SECTION. 252A.6A ADDITIONAL PROVISIONS REGARDING PATERNITY ESTABLISHMENT.

1. When a court of this state is acting as the responding state in an action initiated under this chapter to establish paternity, all of the following shall apply:

a. Except with the consent of all parties, the trial shall not be held until after the birth of the child and shall be held no earlier than twenty days from the date the respondent is served with notice of the action or, if blood or genetic tests are conducted, no earlier than fifty days from the date the test results are filed with the clerk of the district court as provided under section 600B.41.

b. If the respondent, after being served with notice as required under section 252A.6, fails to timely respond to the notice, or to appear for blood or genetic tests pursuant to a court or administrative order, or to appear at a scheduled hearing after being provided notice of the hearing, the court shall find the respondent in default, and shall enter an order establishing paternity and establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4, or medical support pursuant to chapter 252E, or both.

2. When a court of this state is acting as the responding state in an action initiated under this chapter to establish child or medical support based on a prior determination of paternity and the respondent files an answer to the notice required under section 252A.6 denying paternity, all of the following shall apply:

a. (1) If the prior determination of paternity is based on an affidavit of paternity filed pursuant to section 252A.3A, or an administrative order entered pursuant to chapter 252F, or an order by the courts of this state, or by operation of law when the mother and established father are or were married to each other, the provisions of section 600B.41 are applicable.

(2) If the court determines that the prior determination of paternity should not be overcome, pursuant to section 600B.41, and that the respondent has a duty to provide support, the court shall enter an order establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4, or medical support pursuant to chapter 252E, or both.

b. If the prior determination of paternity is based on an administrative or court order or by any other means, pursuant to the laws of a foreign jurisdiction, an action to overcome the prior determination of paternity shall be filed in that jurisdiction. Unless the respondent requests and is granted a stay of an action initiated under this chapter to establish child or medical support, the action shall proceed as otherwise provided in this chapter.

Sec. 15. Section 252B.5, subsection 2, Code Supplement 1993, is amended to read as follows:

2. Aid in establishing paternity and securing a court or administrative order for support pursuant to chapter 252A, 252C, 252F, or 600B, or any other chapter providing for the establishment of paternity or support.

Sec. 16. Section 252B.9, subsection 2, paragraph b, subparagraph (2), Code Supplement 1993, is amended to read as follows:

(2) For support orders entered in Iowa which are being enforced by the unit, the unit may compile and make available for publication a listing of cases in which no payment has been credited to an accrued or accruing support obligation during a previous three-month period. Each case on the list shall be identified only by the name of the support obligor, the address, if known, of the support obligor, unless the information pertaining to the address of the support obligor is protected through confidentiality requirements established by law and has not otherwise been verified with the unit, the support obligor's court order docket or case number, the county in which the obligor's support order is filed, and the collection services center case numbers, and the range within which the balance of the support obligor's delinquency is established. The department shall determine dates for the release of information,

the specific format of the information released, and the three-month period used as a basis for identifying cases. The department may not release the information more than twice annually. In compiling the listing of cases, no prior public notice to the obligor is required, but the unit may send notice annually by first-class mail to the last current known address of any individual owing a support obligation which is being enforced by the unit. The notice shall inform the individual of the provisions of this subparagraph. Actions taken pursuant to this subparagraph are not subject to review under chapter 17A, and the lack of receipt of a notice does not prevent the unit from proceeding in implementing this subparagraph.

Sec. 17. Section 252B.18, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

252B.18 CHILD SUPPORT ADVISORY COMMITTEE — ESTABLISHED — DUTIES.

1. a. The department shall establish a child support advisory committee. Members shall include at least one district judge and representatives of custodial parent groups, noncustodial parent groups, the general assembly, the office of citizens' aide, the Iowa state bar association, the Iowa county attorneys' association, and other constituencies which have an interest in child support enforcement issues, appointed by the respective entity.

b. The legislative members of the committee shall be appointed by the majority leader of the senate, after consultation with the president of the senate, and the minority leader of the senate, and by the speaker of the house, after consultation with the majority leader and the minority leader of the house of representatives. Members shall serve staggered terms of two years. Appointments shall comply with sections 69.16 and 69.16A. Vacancies shall be filled by the original appointing authority and in the manner of the original appointments.

c. Nonlegislative members shall receive actual expenses incurred while serving in their official capacity and may also be eligible to receive compensation as provided in section 7E.6. Legislative members shall receive compensation pursuant to section 2.12.

2. The committee shall select a chairperson, annually, from its membership. A majority of the members of the committee shall constitute a quorum.

3. The child support advisory committee shall assist the department in all of the following activities:

a. Review of existing child support guidelines and recommendations for revision.

b. Examination of the operation of the child support system to identify program improvements or enhancements which would increase the effectiveness of securing parental support and parental involvement.

c. Recommendation of legislation which would clarify and improve state law regarding support for children.

4. The committee shall receive input from the public regarding the issues identified in subsection 3. The methods by which public input may be accessed may include but are not limited to public hearings, focus groups, and surveys.

Sec. 18. Section 252B.20, subsection 1, paragraph b, Code Supplement 1993, is amended to read as follows:

b. ~~The person entitled to receive support and the child for whom support is ordered are~~ is not receiving public assistance pursuant to chapter 239, 249A, or a comparable law of a foreign jurisdiction, unless the person against whom support is ordered is considered to be a member of the same household as the child for the purposes of public assistance eligibility.

Sec. 19. Section 252B.21, subsection 1, Code Supplement 1993, is amended to read as follows:

1. For any support order being enforced by the unit, ~~the administrator~~ unit may enter an ex parte order requiring the obligor to seek employment if employment of the obligor cannot be verified and if the obligor has failed to make support payments. Advance notice is not required prior to entering the ex parte order. The order shall be served upon the obligor by regular mail, with proof of service completed as provided in rule of civil procedure 82. The unit shall file a copy of the order with the clerk of the district court.

Sec. 20. Section 252C.2, subsections 2, 3, and 4, Code 1993, are amended to read as follows:

2. The payment of public assistance to or for the benefit of a dependent child or a dependent child's caretaker creates a support debt due and owing to the department by the responsible person in an amount equal to the public assistance payment, except that the support debt is limited to the amount of a support obligation established by court order or by the administrator. ~~If a court order has not been entered in Iowa, or if an order does not address accrued support owed to the state for public assistance expended, the~~ The administrator may establish a support debt as to amounts accrued and accruing pursuant to section 598.21, subsection 4. However, a support debt is not created in favor of the department against a responsible person for the period during which the responsible person is a recipient on the person's own behalf of public assistance for the benefit of the dependent child or the dependent child's caretaker.

3. The provision of child support collection or paternity determination services under chapter 252B to an individual, even though the individual is ineligible for public assistance, creates a support debt due and owing to the individual or the individual's child or ward by the responsible person in the amount of a support obligation established by court order or by the administrator. ~~If a court order has not been entered in Iowa, the~~ The administrator may establish a support debt in favor of the individual or the individual's child or ward and against the responsible person, both as to amounts accrued and accruing, pursuant to section 598.21, subsection 4.

4. The payment of medical assistance pursuant to chapter 249A for the benefit of a dependent child or a dependent child's caretaker creates a support debt due and owing to the department. ~~If a court order has not been entered in Iowa, or if an administrative order or a court order entered in Iowa does not require provision of medical support pursuant to chapter 252E, or equivalent medical support, the~~ The administrator may establish an order for medical support.

Sec. 21. Section 252C.4, subsections 1, 2, and 5, Code Supplement 1993, are amended to read as follows:

1. A responsible person or the child support recovery unit may request a hearing regarding a determination of support. If a timely written request for a hearing is received, the administrator shall certify the matter to the district court in the county in which the order has been filed, ~~or if no such order has been filed, then to a district court in the county where the dependent child resides or, where the dependent child resides in another state, to the district court where the absent parent resides.~~ as follows:

a. If the child or children reside in Iowa, and the unit is seeking an accruing obligation, in the county in which the dependent child or children reside.

b. If the child or children received public assistance in Iowa, and the unit is seeking only an accrued obligation, in the county in which the dependent child or children last received public assistance.

c. If the action is the result of a request from a foreign jurisdiction to establish support by a responsible person located in Iowa, in the county in which the responsible person resides.

2. ~~If the matter has not been heard previously by the district court, or an existing administrative order does not provide for medical support pursuant to chapter 252E, the~~ The certification shall include true copies of the notice and finding of financial responsibility or notice of the support debt accrued and accruing, the return of service, the written objections and request for hearing, and true copies of any administrative orders previously entered.

5. If a party fails to appear at the hearing, upon a showing of proper notice to that party, the court ~~may~~ shall find that party in default and enter an appropriate order.

Sec. 22. Section 252C.4, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. If a responsible person contests an action initiated under this chapter by denying paternity, the following shall apply, as necessary:

a. (1) If the prior determination of paternity is based on an affidavit of paternity filed pursuant to section 252A.3A, or an administrative order entered pursuant to chapter 252F, or

an order by the courts of this state, or by operation of law when the mother and established father are or were married to each other, the provisions of section 600B.41 are applicable.

(2) If the court determines that the prior determination of paternity should not be overcome pursuant to section 600B.41, and that the responsible person has a duty to provide support, the court shall enter an order establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4, or medical support pursuant to chapter 252E, or both.

b. If the prior determination of paternity is based on an administrative or court order or other means, pursuant to the laws of a foreign jurisdiction, an action to overcome the prior determination of paternity shall be filed in that jurisdiction. Unless the responsible person requests and is granted a stay of an action initiated under this chapter to establish child or medical support, the action shall proceed as otherwise provided by this chapter.

Sec. 23. Section 252C.5, Code 1993, is amended to read as follows:

**252C.5 FILING AND DOCKETING OF FINANCIAL RESPONSIBILITY ORDER — ORDER EFFECTIVE AS DISTRICT COURT DECREE.**

1. A true copy of any order entered by the administrator pursuant to this chapter, along with a true copy of the return of service, if applicable, may be filed in the office of the clerk of the district court in the county in which the dependent child resides or, where the dependent child resides in another state, in the office of the district court in the county in which the absent parent resides in the manner established pursuant to section 252C.4, subsection 1.

1 2. The administrator's order shall be presented, ex parte, to the district court for review and approval. Unless defects appear on the face of the order or on the attachments, the district court shall approve the order. The approved order shall have all the force, effect, and attributes of a docketed order or decree of the district court.

2 3. Upon filing, the clerk shall enter the order in the judgment docket.

Sec. 24. Section 252D.8, subsection 1, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

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, and in any support orders issued or modified after January 1, 1994, for which services are not 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. If services are being provided pursuant to chapter 252B, the child support recovery unit may enter an ex parte order for an immediate withholding of income if authorizing language is contained in the court order. The district court may enter an ex parte order for immediate income withholding for cases in which the child support recovery unit is not providing services. The income of the obligor is subject to immediate withholding unless one of the following occurs:

Sec. 25. Section 252D.23, Code 1993, is amended to read as follows:

**252D.23 FILING OF WITHHOLDING ORDER — ORDER EFFECTIVE AS DISTRICT COURT ORDER.**

An income withholding order entered by the child support recovery unit pursuant to this chapter shall be filed with the clerk of the district court. Upon filing, for the purposes of demonstrating compliance by the employer, trustee, or other payor, the withholding order shall have all the force, effect, and attributes of a docketed order of the district court including, but not limited to, availability of contempt of court proceedings against an employer, trustee, or other payor for noncompliance. However, any information contained in the income withholding order related to the amount of the accruing or accrued support obligation which does not reflect the correct amount of support due does not modify the underlying support judgment.

Sec. 26. Section 252E.2, Code 1993, is amended by adding the following new subsection and renumbering the subsequent subsection:



NEW SUBSECTION. 2. An insurer who is subject to the federal Omnibus Reconciliation Act of 1993, section 4301, as codified in 42 U.S.C. § 1936g-1, shall provide benefits in accordance with that section which meet the requirements of a qualified medical child support order. For the purposes of this subsection "qualified medical child support order" means a child support order which creates or recognizes the existence of a child's right to, or assigns to a child the right to, receive benefits for which a participant or child is eligible under a group health plan and which specifies the following:

- a. The name and the last known mailing address of the participant and the name and mailing address of each child covered by the order.
- b. A reasonable description of the type of coverage to be provided by the plan to each child, or the manner in which the type of coverage is to be determined.
- c. The period during which the coverage applies.
- d. Each plan to which the order applies.

Sec. 27. Section 252E.5, Code 1993, is amended to read as follows:

252E.5 EFFECT OF ORDER ON EMPLOYER.

1. When the order has been forwarded to the obligor's employer pursuant to section 252E.4, the order is binding on the employer and the employer's insurer to the extent that the dependent is eligible to be enrolled in the plan under the applicable terms and conditions of the health benefit plan and the standard enrollment guidelines of the insurer. The employer shall allow enrollment of the dependent at any time, notwithstanding any enrollment season restrictions.

2. The employer shall forward a copy of the order to the insurer and request enrollment of the dependent in the health benefit plan. If the obligor fails to apply to obtain coverage for the dependent, the employer shall accept an application to enroll a dependent which has been signed by the obligee or other legal custodian of a child or by the department. Within sixty days of receipt of the order or within sixty days of receipt of application of the obligor pursuant to the order, whichever is earlier, the insurer shall determine whether the dependent is eligible for enrollment under the plan and shall notify the employer of the dependent's eligibility status. If eligible, the employer shall withhold any required premium from the obligor's income or wages. If more than one plan is offered by the employer, the dependent shall be enrolled in the health benefit plan in which the obligor is enrolled. However, if more than one plan is offered to the obligor, the plan selected shall provide coverage which is accessible to the dependent.

3. The employer shall withhold from the employee's compensation, the employee's share, if any, of premiums for the health benefit plan in an amount that does not exceed the amount specified in 15 U.S.C. § 1673(b) and which is consistent with federal law. The employer shall forward the amount withheld to the insurer.

4. Within thirty days of receipt of an order that requires an obligor to enroll a dependent in a health benefit plan, the obligor's employer shall provide the following information, as applicable, regarding the enrollment status of the dependent to the obligor, the obligee, or other legal custodian of the child, and the department:

- 1 a. That the dependent has been enrolled in a health benefit plan.
2. ~~That the dependent will be enrolled in the next enrollment period.~~
- 3 b. That the dependent is not eligible for enrollment and the reasons that the dependent is not eligible to be enrolled.
- 4 c. That the order has been forwarded to the insurer and a determination of eligibility for enrollment has not been made.

5. If either subsection 1 or 2 describes the enrollment status of the dependent has been enrolled in a health benefit plan, all of the following information shall be provided:

- a. The name of the insurer providing the health benefit plan.
- b. The dependent's effective date of coverage.
- c. The health benefit plan or account number.

d. The type of health benefit plan under which the dependent has been enrolled, including whether dental, optical, office visits, and prescription drugs are covered services. Additionally, the response shall include a brief description of the applicable deductibles, coinsurance, waiting periods for preexisting medical conditions, and other significant terms or conditions which materially affect the coverage.

6. An employer shall not revoke enrollment or eliminate coverage for a dependent unless the employer is provided with satisfactory written evidence that one of the following conditions exists:

a. A court or administrative order requiring coverage in a health benefit plan is no longer in effect.

b. The dependent is eligible for or will be enrolled in a comparable health benefit plan which will take effect no later than the effective date of revocation of enrollment in the other plan.

c. The employer has eliminated dependent health coverage for all employees.

Nothing in this section requires an employer to maintain coverage for the dependent if the premiums are no longer being paid by the obligor because the employer no longer owes compensation to the obligor or because the obligor's employment has been terminated and the obligor has not elected to continue coverage.

PARAGRAPH DIVIDED. If an order requiring that the obligor provide coverage under a health benefit plan for the dependent has been forwarded to the obligor's employer pursuant to section 252E.4, and the obligor's employment is terminated, the employer shall provide notice to the obligee and the department within ten days of termination of the obligor's employment.

7. If an order requiring that the obligor provide coverage under a health benefit plan for the dependent has been forwarded to the obligor's employer pursuant to section 252E.4, and the employer's health benefit plan is terminated either in its entirety or with respect to the obligor's insurance classification, or the employer has changed its insurer or become self-insured, the employer shall provide notice to the obligee or other legal custodian of the child and the department ten days prior to the termination of coverage or change in insurer.

8. This chapter does not preclude the exchange of required information between the department and employers or insurers through electronic data transfer.

Sec. 28. Section 252E.7, Code 1993, is amended to read as follows:

#### 252E.7 INSURER AUTHORIZATION.

1. The entry of an order requiring a health benefit plan is authorization for enrollment of the dependent if the dependent is otherwise eligible to be enrolled. If an order has been forwarded to the insurer pursuant to section 252E.5 and is not accompanied by an appropriate application for enrollment of the dependent signed by the obligor, the insurer shall attempt to obtain a signed application from the obligor. If the insurer is unsuccessful in obtaining a signed application from the obligor within thirty days after the insurer's initial request to the obligor fails to obtain coverage for a dependent, the insurer shall accept the signature of the obligee or other legal custodian of the child or of an employee of the department as valid authorization on the application for enrollment of the dependent under the health benefit plan. If the dependent is otherwise eligible to be enrolled in the plan pursuant to the applicable terms and conditions of the health benefit plan and the standard enrollment guidelines of the insurer, the insurer shall allow enrollment of the dependent at any time, notwithstanding any enrollment season restrictions.

2. An insurer shall not deny enrollment of a child under the health benefit plan of the obligor based on any of the following:

a. The child was born out of wedlock.

b. The child is not claimed as a dependent on the obligor's federal income tax form.

c. The child does not reside with the obligor or in the insurer's service area.

23. For purposes of processing claims for payment, the insurer shall attempt to obtain the obligor's written authorization to accept the signature of the obligee or an employee of the department on all claim forms submitted to the insurer for medical services provided to the dependent. Upon receipt of such written authorization from the obligor on at least an annual

basis, the insurer shall accept the signature of the obligee or other legal custodian of the child or of an employee of the department as valid authorization for purposes of processing any medical expense claims on behalf of the dependent for payment or reimbursement of medical services rendered to the dependent.

If the insurer is unsuccessful in obtaining such written authorization from the obligor within thirty days after the insurer's initial request to the obligor, the insurer shall accept the signature of the obligee or an employee of the department as valid authorization for purposes of processing any medical expense claims on behalf of the dependent for payment or reimbursement of medical services rendered to the dependent.

3 4. The insurer shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed for actions taken in implementing this section including, but not limited to, the insurer's release of any information, or the payment of any claims for services by the insurer, or the insurer's acceptance of applications for enrollment of the dependent and medical expense claims for the dependent which are signed by the obligee or an employee of the department pursuant to this section.

4. This section does not preclude an insurer from issuing payment directly to the provider if such payment procedure is consistent with the health benefit plan under which the dependent is enrolled, except as provided pursuant to chapter 249A.

5. If a dependent has coverage under the health benefit plan of and through the insurer of the obligor, the insurer shall make payment directly to the obligee, the provider, or the department for claims submitted by the obligee, by the provider with the obligee's approval, or by the department.

5 6. Payments remitted to the obligor by the insurer for services received by the dependent shall be recoverable by the obligee or the department from the obligor if not properly paid by the obligor to the provider or the obligee.

Sec. 29. Section 252E.8, subsection 1, Code 1993, is amended to read as follows:

1. If an order for coverage under a health benefit plan has been forwarded pursuant to section 252E.5, the obligor's employer or insurer shall release to the obligee or other legal custodian of the child or the department, upon receiving a written request, the information necessary to complete an application, or to file a claim for medical expenses of the dependent, provided the obligor's employer or insurer is given sufficient opportunity to obtain written authorization for the release of such information from the obligor pursuant to this section or to create a qualified medical child support order pursuant to section 252E.2, subsection 2.

Sec. 30. Section 252E.13, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The department may amend information concerning the provisions regarding health benefits in a court or administrative order, if necessary to comply with section 252E.2, subsection 2, if notice of the amendment is provided to the court and to the parties to the order and if the amendment is filed with the clerk of court.

Sec. 31. Section 252F.1, subsection 3, paragraph c, Code Supplement 1993, is amended by striking the paragraph.

Sec. 32. Section 252F.3, Code Supplement 1993, is amended to read as follows:

252F.3 NOTICE OF ALLEGED PATERNITY AND SUPPORT DEBT – CONFERENCE – REQUEST FOR HEARING.

1. The unit may prepare a notice of alleged paternity and support debt to be served on the putative father if the mother of the child provides a written statement to the unit verifying certifying in accordance with section 622.1 that the putative father is or may be the biological father of the child or children involved. The notice shall be accompanied by a copy of the statement and served on the putative father in accordance with rule of civil procedure 56.1. Service upon the mother shall not constitute valid service upon the putative father. The notice shall include or be accompanied by all of the following:

a. The name of the recipient of services under chapter 252B and the name and birth date of the child or children involved.

b. A statement that the putative father has been named as the biological father of the child or children named.

c. A statement that if paternity is established, the amount of the putative father's monthly support obligation and the amount of the support debt accrued and accruing will be established in accordance with the guidelines established in section 598.21, subsection 4, and the criteria established pursuant to section 252B.7A.

d. A statement that if paternity is established, the putative father has a duty to provide accrued and accruing medical support to the child or children in accordance with chapter 252E.

e. ~~An~~ A written explanation of the procedures for determining the child support obligation and a request for financial or income information as necessary for application of the child support guidelines established pursuant to section 598.21, subsection 4.

f. (1) The right of the putative father to request a conference with the unit to discuss paternity establishment and the amount of support that the putative father is may be required to pay, within ten days of the date of service of the original notice or, if paternity is contested and paternity testing is conducted, within ten days of the date of ~~mailing~~ mailing of the paternity test results are issued or mailed to the putative father if the father denies paternity by the unit.

(2) A statement that if a conference is requested, the putative father shall have ~~ten~~ one of the following time frames, whichever is the latest, to send a written request for a court hearing on the issue of support to the unit:

(a) ~~Ten~~ Ten days from the date set for the conference ~~or twenty~~.

(b) Twenty days from the date of service of the original notice, ~~or~~.

(c) If paternity was contested and paternity testing was conducted, and the putative father does not deny paternity, after the testing, or challenge the paternity test results, ten days from the date of the mailing of paternity test results are issued or mailed by the unit to the putative father if the putative father no longer denies paternity, whichever is later, to send a written request for a hearing on the issue of support to the unit.

(3) A statement that after the holding of the conference, the ~~administrator may~~ unit shall issue a new notice of alleged paternity and finding of financial responsibility for child support or medical support, or both, to be provided in person to the putative father or sent to the putative father by regular mail addressed to the putative father's last known address or, if applicable, to the last known address of the putative father's attorney.

(4) A statement that if the ~~administrator~~ unit issues a new notice of alleged paternity and finding of financial responsibility for child support or medical support, or both, the putative father shall have ~~ten~~ one of the following time frames, whichever is the latest, to send a written request for a court hearing on the issue of support to the unit:

(a) Ten days from the date of issuance of the new notice ~~or twenty~~.

(b) Twenty days from the date of service of the original notice, ~~or~~.

(c) If paternity was contested and paternity testing conducted, and the putative father does not deny paternity after the testing or challenge the paternity test results, ten days from the date of the mailing of paternity test results are issued or mailed to the putative father if the putative father no longer denies paternity, whichever is later, to send a written request for a hearing on the issue of support to the unit by the unit.

g. A statement that if a conference is not requested, and the putative father does not deny paternity or challenge the results of any paternity testing conducted but objects to the finding of financial responsibility or the amount of child support or medical support, or both, the putative father shall send a written request for a court hearing on the issue of support to the unit within twenty days of the date of service ~~or of the original notice, or, if paternity was contested and paternity testing conducted, and the putative father does not deny paternity, after the testing, or challenge the paternity test results~~, within ten days from the date of the mailing of paternity test results are issued or mailed to the putative father if the putative father no longer denies paternity, by the unit, whichever is later, send a written request for a hearing on the issue of support to the unit.

h. A statement that if a timely written request for a hearing on the issue of support is received by the unit, the putative father shall have the right to a hearing to be held in district court and that if no timely written request is received and paternity is not denied contested, the administrator may shall enter an order in accordance with the notice and finding of financial responsibility for establishing the putative father as the father of the child or children and establishing child support or medical support, or both, in accordance with the notice of alleged paternity and support debt.

i. A statement written explanation of the rights and responsibilities associated with the establishment of paternity.

j. A statement written explanation of the putative father's right to deny paternity, the procedures for denying paternity, and the consequences of the denial.

k. A statement that if the putative father contests paternity, the putative father shall have twenty days from the date of service of the original notice to submit a written denial of paternity to the unit.

l. A statement that if paternity is contested, the unit shall, at the request of the party contesting paternity or on its own initiative, enter an administrative order requiring the putative father, mother, and child or children involved, to submit to paternity testing.

m. A statement that if paternity tests are conducted, the unit shall provide a copy of the test results to the putative father in person or send a copy to the putative father by regular mail, addressed to the putative father's last known address, or, if applicable, to the last known address of the putative father's attorney.

n. A statement setting forth the time frames for contesting paternity after paternity tests are conducted.

o. Other information as the unit finds appropriate.

2. The time limitations established for the notice provisions under subsection 1 are binding unless otherwise specified in this chapter or waived by the putative father pursuant to section 252F.8.

3. If notice is served on the putative father, the unit shall file a true copy of the notice and the original return of service with the appropriate clerk of the district court in as follows:

a. In the county in which the child or children reside, or, if the action is for purposes of establishing paternity and future child or medical support, or both.

b. In the county in which the child or children involved last received public assistance benefits in the state, if the action is for purposes of establishing paternity and child or medical support, or both, only for prior periods of time when the child or children received public assistance, and no ongoing child or medical support obligation is to be established by this action.

c. If the action is the result of a request from a foreign jurisdiction of another state to establish paternity of a putative father located in Iowa, in the county in which the putative father resides.

PARAGRAPH DIVIDED. All subsequent documents filed or court hearings held related to the action shall be in the district court in the county in which notice was filed pursuant to this subsection. The clerk shall file and docket the action.

4. If the A putative father requests a hearing on the issue of support, and if or the child support recovery unit may request a court hearing regarding establishment of paternity or a determination of support, or both.

a. Upon receipt of a timely written response setting forth objections and requesting a hearing is received by the unit, a hearing shall be held in district court on the issue of support or on its own initiative, the unit shall certify the matter for hearing in the district court in the county where the original notice of alleged paternity and support debt is filed, in accordance with section 252F.5.

b. If paternity establishment was contested and paternity tests conducted, a court hearing on the issue of paternity shall be scheduled no earlier than fifty days from the date paternity test results are issued to all parties by the unit, unless the parties mutually agree to waive the time frame pursuant to section 255F.8.

c. If a court hearing is scheduled regarding the issue of paternity establishment, any objection to the results of paternity tests shall be filed no later than thirty days before the date the court hearing is originally scheduled. Any objection to paternity test results filed by a party less than thirty days before the date the court hearing is originally scheduled shall not be accepted or considered by the court.

5. If a timely written response and request for a court hearing is not received by the unit and the putative father does not deny paternity, the administrator may shall enter an order in accordance with section 252F.4 on the issue of support.

6. a. If the putative father denies a party contests the establishment of paternity, the putative father party shall submit, within twenty days of service of the notice on the putative father under subsection 1, a written denial of statement contesting paternity establishment to the unit. Upon receipt of a written denial challenge of paternity establishment, or upon initiation by the unit, the administrator shall enter an ex parte administrative order orders requiring the mother, child or children involved, and the putative father to submit to paternity testing. Either the mother or putative father may contest paternity under this chapter.

b. The order orders shall be filed with the clerk of the district court in the county where the notice was filed and have the same force and effect as a court order for paternity testing.

b. If the putative father has signed an affidavit of paternity pursuant to section 252A.3A within the three-year period prior to the receipt of notice, and the putative father contests paternity, the putative father shall pay all costs of the paternity testing.

c. The unit shall issue copies of the respective administrative orders for paternity testing to the mother and putative father in person, or by regular mail to the last known address of each, or if applicable, to the last known address of the attorney for each.

e d. If a paternity test is required ordered under this section, the administrator shall direct that inherited characteristics, including but not limited to blood types, be analyzed and interpreted, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret the results and report the results to the administrator.

d e. The putative father party contesting paternity shall be provided one opportunity to reschedule the paternity testing appointment if the testing is rescheduled prior to the date of the originally scheduled appointment.

e f. An original copy of the test results shall be sent to filed with the clerk of the district court in the county where the notice was filed, and a copy shall be sent to the administrator and. The child support recovery unit shall issue a copy of the filed test results to the putative father and mother of the child or children in person, or by regular mail to the last known address of each, or if applicable, to the last known address of the attorney for each. However, if the action is the result of a request from a foreign jurisdiction, the unit shall issue a copy of the results to the initiating agency in that foreign jurisdiction.

f g. Verified documentation of the chain of custody of the blood or genetic specimens is competent evidence to establish the chain of custody. The testimony of the appointed expert is not required. A verified expert's report of test results which indicate a statistical probability of paternity is sufficient authenticity of the expert's conclusion.

h. A verified expert's report shall be admitted as evidence to establish administrative paternity, and, if a court hearing is scheduled to resolve the issue of paternity, shall be admitted as evidence and is admissible at trial.

g i. If the verified expert concludes that the test results show that the putative father is not excluded and that the probability of the putative father's paternity is ninety-five percent or higher, there shall be a rebuttable presumption that the putative father is the biological father, and the evidence shall be sufficient as a basis for administrative establishment of paternity. A verified expert's report on test results which indicate a statistical probability of paternity is sufficient authenticity of the expert's conclusion.

h. If the paternity test results indicate a probability of paternity of ninety-five percent or greater and the putative father wishes

(1) In order to challenge the presumption of paternity, the putative father a party shall file a written notice of the challenge with the district court and an application for a hearing by the district court within twenty days of the filing of the expert's report with the clerk of the district court from the date the paternity test results are issued or mailed to all parties by the unit, or within ten if a court hearing is scheduled to resolve the issue of paternity, no later than thirty days after before the scheduled date of the conference court hearing, whichever occurs later. Any subsequent rescheduling or continuances of the originally scheduled hearing shall not extend the initial time frame. Any challenge to a presumption of paternity resulting from paternity tests, or to paternity test results filed after the initial time frame shall not be accepted or admissible by the unit or the court.

(2) A copy of the notice challenging the presumption of paternity shall be provided to any other party in person, or by mailing the notice to the last known address of each party, or if applicable, to the last known address of each party's attorney.

(4) (3) The party challenging the presumption of paternity has the burden of proving that the putative father is not the father of the child.

(2) (4) The presumption of paternity may be rebutted only by clear and convincing evidence.

i j. If the verified expert concludes that the test results indicate that the putative father is not excluded and that the probability of the putative father's paternity is less than ninety-five percent, test results shall be weighed along with other evidence of paternity. To challenge the test results, a party shall file a written notice of the challenge with the clerk of the district court within twenty days of the filing of the expert's report and shall send a copy of the written notice to any other party. The the administrator may then shall order a second subsequent administrative paternity test or certify the case to the district court for resolution in accordance with the procedures and time frames specified in paragraph "i" and section 252F.5.

k. If the results of the test or the verified expert's analysis are timely challenged as provided in this subsection, the administrator, upon the request of a party or upon the unit's own initiative, shall order that an additional test be performed by the same laboratory or an independent laboratory or shall certify the case to the district court in accordance with paragraph "i" and section 252F.5.

l. When a subsequent paternity test is conducted, the time frames in this chapter associated with paternity tests shall apply to the most recently completed test.

m. If the paternity test results exclude the putative father as a potential biological father of the child or children, and additional tests are not requested by either party or conducted on the unit's initiative, or if additional tests exclude the putative father as a potential biological father, the unit shall withdraw its action against the putative father and shall file a notice of the withdrawal with the clerk of the district court, and shall provide a copy of the notice to the putative father in person, or by regular mail sent to the putative father's last known address, or if applicable, the last known address of the putative father's attorney.

n. If paternity is established and paternity testing was conducted, the unit shall enter an order or, if the action proceeded to a court hearing, request that the court enter a judgment for the costs of the paternity tests consistent with applicable federal law.

k. If the results of the test or the expert's analysis are disputed, the administrator, upon the request of a party or upon the unit's own initiative, shall order that an additional test be performed by the same laboratory or an independent laboratory, at the expense of the party requesting additional testing.

Sec. 33. Section 252F.4, subsections 1, 2, 3, 4, 6, and 7, Code Supplement 1993, are amended to read as follows:

1. If the putative father fails to respond to the initial notice within twenty days after the date of service of the notice or fails to appear at the a conference pursuant to section 252F.3 on the scheduled date of the conference, and paternity has not been contested and the putative father fails to timely request a court hearing on the issue of support, the administrator may shall enter an order against the putative father, declaring the putative father to be the biological legal father of the child or children involved and assessing the support obligation

and any accrued and accruing child support obligation pursuant to the guidelines established under section 598.21, subsection 4, and medical support pursuant to chapter 252E, against the father.

2. If paternity is contested pursuant to section 252F.3, subsection 6, and the putative father party contesting paternity fails to appear for a paternity test and fails to request a rescheduling pursuant to section 252F.3, or fails to appear for both the initial and the rescheduled paternity tests and the putative father fails to timely request a court hearing on the issue of support, the administrator may shall enter an order against the putative father declaring the putative father to be the biological legal father of the child or children involved and assessing the support obligation and any accrued and accruing child support obligation pursuant to the guidelines established under section 598.21, subsection 4, and medical support pursuant to chapter 252E, against the father.

3. If the putative father appears at a conference pursuant to section 252F.3, and paternity is not contested, and the putative father fails to timely request a court hearing on the issue of support, the administrator may shall enter an order against the putative father ten days after the second notice has been sent declaring the putative father to be the biological legal father of the child or children involved and assessing the support obligation and any accrued and accruing child support obligation pursuant to the guidelines established under section 598.21, subsection 4, and medical support pursuant to chapter 252E against the father.

4. If paternity was contested and paternity testing was performed and the putative father was not excluded, if the test results indicate that the probability of the putative father's paternity is ninety-five percent or greater, and the putative father fails to timely challenge paternity testing, if the test results are not timely challenged, and if the putative father fails to timely request a court hearing on the issue of support, the administrator may shall enter an order against the putative father declaring the putative father to be the biological legal father of the child or children involved and assessing the support obligation and any accrued and accruing child support obligation pursuant to the guidelines established under section 598.21, subsection 4, and medical support pursuant to chapter 252E, against the father.

6. The order shall contain all of the following:

- a. A declaration of paternity.
- b. The amount of monthly support to be paid, with direction as to the manner of payment.
- c. The amount of accrued support.
- d. The name of the custodial parent or caretaker.
- e. The name and birth date of the child or children to whom the order applies.
- f. A statement that property of the putative father is subject to income withholding, liens, garnishment, tax offset, and other collection actions.
- g. The medical support required pursuant to chapter 598 and chapter 252E.
- h. A statement that the father is required to inform the child support recovery unit, on a continuing basis, of the name and address of the father's current employer, whether the father has access to health insurance coverage through employment or at reasonable cost through other sources, and if so, the health insurance policy information.

i. If paternity was contested, the amount of any judgment assessed to the father for costs of paternity tests conducted pursuant to this chapter.

7. If the putative father does not deny paternity is not contested but the putative father does wish to challenge the issues of child or medical support, the administrator may shall enter an order establishing paternity and reserving the issues of child or medical support for determination by the district court.

Sec. 34. Section 252F.5, subsections 2, 3, 6, and 7, Code Supplement 1993, are amended to read as follows:

2. An action under this chapter may be certified to the district court if a party challenges the administrator's finding of timely contests paternity, or the amount of establishment or paternity test results, or if the putative father requests a court hearing on the issues of child or medical support, or both, or upon the initiation of the unit as provided in this chapter. Review by the district court shall be an original hearing before the court.



3. In any action brought under this chapter, the action shall not be certified to the district court in a contested paternity action unless all of the following have occurred:

- a. Paternity testing has been completed.
- b. The results of the paternity test have been sent issued to the putative father all parties.
- c. A timely written objection to the entry of an order paternity establishment or paternity test results has been received from a party, or a timely written request for a court hearing on the issue of support has been received from the putative father by the unit, or the unit has requested a court hearing on the unit's own initiative.
- d. At least fifty days have expired since the test results have been issued to the parties by the unit or the time frame has been waived pursuant to section 252F.8.

6. If the court determines that the putative father is the biological legal father, the court shall establish the amount of the monthly support payment and the accrued and accruing child support pursuant to the guidelines established under section 598.21, subsection 4, and shall establish medical support pursuant to chapter 252E.

7. If a the putative father or another party contesting paternity fails to appear at the hearing, upon a showing that proper notice has been provided to the party, the court may shall find the party in default and enter an appropriate order establishing paternity and support.

Sec. 35. Section 252F.8, Code Supplement 1993, is amended to read as follows:

252F.8 WAIVER OF TIME LIMITATIONS BY PUTATIVE FATHER.

1. A putative father or other party may waive the time limitations established in this chapter.
2. Upon If a party does not contest paternity or wish to request a conference or court hearing on the issue of support, upon receipt of a signed statement from the putative father and any other party that may contest establishment of paternity, waiving the time limitations, the administrator may shall enter an order establishing paternity and support and the court may approve the order, notwithstanding the expiration of the period of the time limitations if paternity is established.

3. If a putative father or other party waives the time limitations and an order establishing paternity and or determining support, or both, is entered under this chapter, the signed statement of the putative father and other party waiving the time limitations shall be filed with the order for support.

Sec. 36. Section 252G.1, Code Supplement 1993, is amended to read as follows:

252G.1 DEFINITIONS.

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

1. "Compensation" means payment owed by the payor of income for:
  - a. Labor or services rendered by an employee or contractor to the payor of income.
  - b. Benefits including, but not limited to, vacation, holiday, and sick leave, and severance payments which are due an employee under an agreement with the employer or under a policy of the employer.
2. "Contractor" means a natural person who is an independent contractor, including an independent trucking owner or operator eighteen years of age or older, who performs labor in this state to whom a payor of income makes payments which are not subject to withholding and for whom the payor of income is required by the internal revenue service to complete a 1099-MISC form.
  2. "Date of hire" means the earlier of either of the following:
    - a. The first day for which the an employee or contractor is owed compensation by the payor of income.
    - b. The first day that an employee or a contractor reports to work or performs labor or services for the payor of income.
  3. "Days" means calendar days.
  4. "Department" means the department of human services.
  5. "Dependent" includes a spouse or child or any other person who is in need of and entitled to support from a person who is declared to be legally liable for the support of that dependent.

7 6. "Employee" means a natural person who performs labor in this state and is employed by an employer in this state for compensation and for whom the employer withholds federal or state tax liabilities from the employee's compensation.

8 7. "Employer" means a person doing business in the this state who engages an employee for compensation and for whom the employer withholds federal or state tax liabilities from the employee's compensation.

8. "Natural person" means an individual and not a corporation, government, business trust, estate, partnership, proprietorship, or other legal entity, however organized.

9 10. "Payor of income" includes both an employer and a person doing engaged in a trade or business in the this state who engages a contractor for compensation.

10 11. "Registry" means the central employee registry created in section 252G.2.

11 12. "Rehire" means the earlier of either of the following:

a. The first day for which the an employee or contractor is owed compensation by the payor of income following an unpaid absence of a termination of employment lasting a minimum of six consecutive weeks. Termination of employment does not include temporary separations from employment such as unpaid medical leave, an unpaid leave of absence, or a temporary layoff.

b. The first day that an employee or contractor reports to work or performs labor or services for the payor of income following an unpaid absence of a minimum of six consecutive weeks.

12 13. "Unit" means the child support recovery unit created in section 252B.2.

Sec. 37. Section 252G.3, subsection 1, Code Supplement 1993, is amended to read as follows:

1. Beginning January 1, 1994, an employer who hires or rehires an employee on or after January 1, 1994, shall report all of the following the hiring or rehiring of the employee to the centralized employee registry within ten fifteen days of the hiring or rehiring of an the employee. Employers shall report employees who, on the date of hire or rehire, are eighteen years of age or older, and may report employees who, on the date of hire or rehire, are under eighteen years of age. Only employees who are reasonably expected to earn at least one dollar in compensation for any day on which the employee works shall be reported. The report submitted shall contain all of the following:

a. The employer's name, address, and federal identification number.

b. The employee's name, address, social security number, and date of birth.

c. Information regarding availability of whether the employer has employee dependent health care coverage available and whether or not the appropriate date on which the employee is qualified may qualify for the coverage.

d. Whether the payroll of the employer is prepared at the address of the employer or at a separate location, and the address of the separate location, if applicable. The address to which income withholding orders and garnishments should be sent.

Sec. 38. Section 252G.4, Code Supplement 1993, is amended to read as follows:

252G.4 ALTERNATIVE REPORTING REQUIREMENTS – PENALTY.

1. Beginning January 1, 1994, a payor of income to whom section 252G.3 is inapplicable, who engages a contractor on or after January 1, 1994 on or after January 1, 1994, enters into an agreement for the performance of services with a contractor, shall report all of the following the contractor to the registry. Payors of income shall report contractors performing labor under an agreement within ten fifteen days of hiring or rehiring of a contractor the date on which all of the following conditions are met:

a. The payor issues payment to the contractor in an amount which exceeds the amount required for the filing of a 1099-MISC report.

b. Payment to the contractor under an agreement is made in a form which is other than a lump sum payment, within a calendar year.

The payor of income is not required to file more than one report for any contractor.

2. The report submitted to the registry shall contain all of the following:

a. The name, address, and federal identification number of the payor of income.

b. The contractor's name, address, social security number, and if known, the contractor's date of birth.

2. Payers of income to whom section 252G.3 is inapplicable shall report under this section only when all of the following conditions are met:

a. The contractor is not being engaged for the sole purpose of performing services on the residential property of the payor of income.

b. Payment of income under the contract is reasonably expected to equal or exceed one thousand dollars in any twelve-month period.

c. The contractor will perform labor or services for a minimum period of two months.

3. A payor of income required to report under this section may report the information required under subsection 1 by any written means authorized by the unit which results in timely reporting.

4. Information reported under this section shall be received and maintained as provided in section 252G.2.

5. A payor of income required to report under this section who fails to report is subject to the penalty provided in section 252G.3, subsection 4.

Sec. 39. Section 421.17, subsection 21A, paragraphs c and d, Code Supplement 1993, are amended to read as follows:

c. The individual shall remit the payment to the department of revenue and finance separate from any tax liability payments, identify the payment as a support payment, and make the payment payable to the collection services center. The department shall forward all payments received pursuant to this section to the collection services center established pursuant to chapter 252B, for processing and disbursement. The department of revenue and finance may establish by rule a process for the child support recovery unit or collection services center to directly receive the payments. For purposes of crediting the support payments pursuant to sections 252B.14 and 598.22, payments received by the department of revenue and finance and forwarded to the collection services center shall be credited as if received directly by the collection services center.

d. The notice shall provide that, as an alternative to the provisions of paragraph "b", the individual may contact the child support recovery unit to formalize a repayment plan and obtain an exemption from the quarterly payment filing requirement when payments are made pursuant to the repayment plan or to contest the balance due listed in the notice when payments are made pursuant to the plan.

Sec. 40. Section 598.21, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. If, during an action initiated under this chapter or any other chapter in which a child or medical support obligation may be established based upon a prior determination of paternity, a party wishes to contest the paternity of the child or children involved, all of the following apply:

a. (1) If the prior determination of paternity is based on an affidavit of paternity filed pursuant to section 252A.3A, or a court or administrative order entered in this state, or by operation of law when the mother and established father are or were married to each other, the provisions of section 600B.41A apply.

(2) If following the proceedings under section 600B.41A the court determines that the prior determination of paternity should not be overcome, and that the established father has a duty to provide support, the court shall enter an order establishing the monthly child support payment and the amount of the support debt accrued and accruing pursuant to subsection 4, or the medical support obligation pursuant to chapter 252E, or both.

b. If a determination of paternity is based on an administrative or court order or other means pursuant to the laws of a foreign jurisdiction, any action to overcome the prior determination of paternity shall be filed in that jurisdiction. Unless a stay of the action initiated in this state to establish child or medical support is requested and granted by the court, pending a resolution of the contested paternity issue by the foreign jurisdiction, the action shall proceed.

c. Notwithstanding paragraph "a", a prior determination of paternity by operation of law through the marriage of the established father and mother of the child may be overcome under this chapter if the established father and mother of the child submit a statement that both parties agree that the established father is not the biological father of the child and the court finds that it is in the best interest of the child to overcome the established paternity. In determining the best interest of the child, the court shall consider the criteria provided in section 600B.41A, subsection 3, paragraph "g".

Sec. 41. Section 598.21, subsection 8, paragraph k, Code Supplement 1993, is amended by striking the paragraph.

Sec. 42. Section 598.21, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4B. If an action to overcome paternity is brought pursuant to subsection 4A, paragraph "c", the court shall appoint a guardian ad litem for the child for the pendency of the proceedings.

Sec. 43. Section 600B.9, Code 1993, is amended to read as follows:  
600B.9 TIME OF INSTITUTING PROCEEDINGS.

The proceedings may be instituted during the pregnancy of the mother or after the birth of the child, but, except with the consent of the person charged with being the father all parties, the trial shall not be had held until after the birth of the child and shall be held no earlier than twenty days from the date the alleged father is served with notice of the action or, if blood or genetic tests are conducted, no earlier than fifty days from the date the test results are filed with the clerk of the district court as provided under section 600B.41.

Sec. 44. Section 600B.24, Code 1993, is amended to read as follows:  
600B.24 JUDGMENT IN GENERAL.

1. If the defendant, after being served with notice as required under section 600B.15, fails to timely respond to the notice, or to appear for blood or genetic tests pursuant to a court or administrative order, or to appear at a scheduled hearing after being provided notice of the hearing, the court shall find the defendant in default and enter a default judgment.

2. If the findings Upon a finding or verdict be of paternity against the defendant, the court shall give enter a judgment against him the defendant declaring paternity and for ordering support of the child.

Sec. 45. Section 600B.41, subsections 3, 5, and 6, Code Supplement 1993, are amended to read as follows:

3. Verified documentation of the chain of custody of the blood or genetic specimen is competent evidence to establish the chain of custody. The testimony of the court-appointed expert at trial is not required.

5. The results of the tests shall have the following effects:

a. Test results which show a statistical probability of paternity are admissible. To challenge the test results, a party shall file a notice of the challenge, with the court, within twenty days of the filing of the expert's report with the clerk of the district court, or, if a court hearing is scheduled to resolve the issue of paternity, no later than thirty days before the original court hearing date.

(1) Any subsequent rescheduling or continuances of the originally scheduled hearing shall not extend the original time frame.

(2) Any challenge filed after the time frame is not acceptable or admissible by the court.

(3) If a challenge is not timely filed, the test results shall be admitted as evidence of paternity without the need of additional proof of authenticity or accuracy.

b. If the expert concludes that the test results show that the alleged father is not excluded and that the probability of the alleged father's paternity is ninety-five percent or higher, there shall be a rebuttable presumption that the alleged father is the father, and this evidence must be admitted.

(1) To challenge this presumption of paternity, a party must file a notice of the challenge with the court within twenty days of the filing of the expert's report with the clerk of the district court the time frames prescribed in paragraph "a".

(2) The party challenging the presumption of the alleged father's paternity has the burden of proving that the alleged father is not the father of the child.

(3) The presumption of paternity can be rebutted only by clear and convincing evidence.

c. If the expert concludes that the test results show that the alleged father is not excluded and that the probability of the alleged father's paternity is less than ninety-five percent, test results shall be weighed along with other evidence of the alleged father's paternity. To challenge the test results, a party must file a notice of the challenge with the court within twenty days of the filing of the expert's report with the clerk of the district court the time frames prescribed in paragraph "a".

6. If the results of the tests or the expert's analysis of inherited characteristics is disputed in a timely fashion, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or an independent laboratory at the expense of the party requesting additional testing. When a subsequent test is conducted, all time frames prescribed in this chapter associated with blood or genetic tests shall apply to the most recently completed test.

Sec. 46. Section 600B.41, subsection 7, Code Supplement 1993, is amended by striking the subsection.

Sec. 47. Section 600B.41, subsection 8, Code Supplement 1993, is amended to read as follows:

8. All costs shall be paid by the parties or parents in proportions and at times determined by the court, except as otherwise provided pursuant to section 600B.41A.

Sec. 48. NEW SECTION. 600B.41A ACTIONS TO OVERCOME PATERNITY — APPLICABILITY — CONDITIONS.

1. Paternity which is legally established may be overcome as provided in this section if subsequent blood or genetic testing indicates that the previously established father of a child is not the biological father of the child. Unless otherwise provided in this section, this section applies to the overcoming of paternity which has been established according to any of the means provided in section 252A.3, subsection 9, by operation of law when the established father and the mother of the child are or were married to each other, or as determined by a court of this state under any other applicable chapter.

2. This section does not apply to any of the following:

a. A paternity determination made in or by a foreign jurisdiction and, notwithstanding section 252A.20, a paternity determination which has been made in or by a foreign jurisdiction and registered in this state in accordance with section 252A.18.

b. A paternity determination based upon a court or administrative order if the order was entered based upon blood or genetic test results which demonstrate that the alleged father was not excluded and that the probability of the alleged father's paternity was ninety-five percent or higher, unless the tests were conducted prior to July 1, 1992.

3. Establishment of paternity may be overcome under this section if all of the following conditions are met:

a. The action to overcome paternity is filed with the court prior to the child reaching majority.

(1) A petition to overcome paternity may be filed only by the mother of the child, the established father of the child, the child, or the legal representative of any of these parties.

(2) If paternity was established by court or administrative order, a petition to overcome paternity shall be filed in the county in which the order is filed.

(3) In all other determinations of paternity, a petition to overcome paternity shall be filed in an appropriate county in accordance with the rules of civil procedure.

b. The petition contains, at a minimum, all of the following:

(1) The legal name, age, and domicile, if any, of the child.

(2) The names, residences, and domicile of the following:

- (a) Living parents of the child.
- (b) Guardian of the child.
- (c) Custodian of the child.
- (d) Guardian ad litem of the child.
- (e) Petitioner.
- (f) Person standing in the place of the parents of the child.

(3) A plain statement that the petitioner believes that the established father is not the biological father of the child, any reasons for this belief, and that the petitioner wishes to have the paternity determination set aside.

(4) A plain statement explaining why the petitioner does not know any of the information required under subparagraphs (1) and (2).

c. Notice of the action to overcome paternity is served on any parent of the child not initiating the action and any assignee of the support obligation, in accordance with the rules of civil procedure and in accordance with the following:

(1) If enforcement services are being provided by the child support recovery unit pursuant to chapter 252B, notice shall also be served on the child support recovery unit.

(2) The responding party shall have twenty days from the date of the service of the notice to file a written response with the court.

d. A guardian ad litem is appointed for the child.

e. Blood or genetic testing is conducted in accordance with section 600B.41 or chapter 252F.

(1) Unless otherwise specified pursuant to subsection 2 or 8, blood or genetic testing shall be conducted in all cases prior to the determination by the court of the best interest of the child in an action to overcome the establishment of paternity.

(2) Unless otherwise specified in this section, section 600B.41 applies to blood or genetic tests conducted as the result of an action brought to overcome paternity.

(3) The court may order additional testing to be conducted by the expert or an independent expert in order to confirm a test upon which an expert concludes that the established father is not the biological father of the child.

f. The court finds that the conclusion of the expert as disclosed by the evidence based upon blood or genetic testing demonstrates that the established father is not the biological father of the child.

g. The court finds that it is in the best interest of the child to overcome the establishment of paternity. In determining the best interest of the child, the court shall consider all of the following:

(1) The age of the child.

(2) The length of time since the establishment of paternity.

(3) The previous relationship between the child and the established father, including but not limited to the duration and frequency of any time periods during which the child and established father resided in the same household or engaged in a parent-child relationship as defined in section 600A.2.

(4) The possibility that the child could benefit by establishing the child's actual paternity.

(5) Additional factors which the court determines are relevant to the individual situation.

4. If the court finds that the establishment of paternity is overcome, in accordance with all of the conditions prescribed, the established father is relieved of all future support obligations owed on behalf of the child.

a. The effective date of termination of any future support obligation is the date on which an order determining that the established father is not the biological father is filed with the court.

b. Any periodic support payment, due prior to the date the order determining that the established father is not the biological father is filed, is unaffected by this action and remains a judgment subject to enforcement.

5. An action brought under this section shall be heard and decided by the court, and shall not be subject to a jury trial.

6. If the court determines that test results conducted in accordance with section 600B.41 or chapter 252F exclude the established father as the biological father, but the court dismisses the action to overcome paternity, the court may enter an order relieving the established father of any or all future support obligations owed on behalf of the child, while preserving the paternity determination. The court's determination and the effective date of the determination shall be in accordance with subsection 4, paragraphs "a" and "b", and shall be made based upon the unique circumstances of each case and the interests of all parties.

7. The costs of testing, the fee of the guardian ad litem, and all court costs shall be paid by the person bringing the action to overcome paternity.

8. This section shall not be construed as a basis for termination of an adoption decree or for discharging the obligation of an adoptive father to an adoptive child pursuant to section 600B.5.

9. Unless specifically addressed in an order entered pursuant to this section, provisions previously established by the court order regarding custody or visitation of the child are unaffected by an action brought under this section.

10. Participation of the child support recovery unit created in section 252B.2 in an action brought under this section shall be limited as follows:

a. The unit shall only participate in actions if services are being provided by the unit pursuant to chapter 252B.

b. When services are being provided by the unit under chapter 252B, the unit may enter an administrative order for blood and genetic tests pursuant to chapter 252F.

c. The unit is not responsible for or required to provide for or assist in obtaining blood or genetic tests in any case in which services are not being provided by the unit.

d. The unit is not responsible for the costs of blood or genetic testing conducted pursuant to an action brought under this section.

e. Pursuant to section 252B.7, subsection 4, an attorney employed by the unit represents the state in any action under this section. The unit's attorney is not the legal representative of the mother, the established father, or the child in any action brought under this section.

Sec. 49. Section 602.6111, Code Supplement 1993, is amended by adding the following new subsection:

**NEW SUBSECTION.** 3. The requirements of subsection 1 do not apply to actions filed by the child support recovery unit established pursuant to chapter 252B. For actions filed by the child support recovery unit, the clerk of the district court shall generate an alternative personal identification number if the party's social security number or driver's license number is not provided or available through other sources.

Sec. 50. Section 627.13, Code 1993, is amended to read as follows:  
**627.13 WORKERS' COMPENSATION.**

Any compensation due or that may become due an employee or dependent under chapter 85 is exempt from garnishment, attachment, execution, and assignment of income, except for the purposes of enforcing child, spousal, or medical support obligations. For the purposes of enforcing child, spousal, or medical support obligations, ~~the an assignment of income, garnishment or attachment of or the execution against compensation due an employee or dependent under chapter 85 is not exempt but~~ shall be limited as specified in 15 U.S.C. § 1673(b).

Sec. 51. Section 669.2, subsection 4, Code Supplement 1993, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** "Employee of the state" also includes an individual performing unpaid community service under an order of the district court pursuant to section 598.23A.

Sec. 52. **EFFECTIVE DATES AND RETROACTIVE APPLICABILITY.**

1. Section 252D.23 as amended by this Act, relating to income withholding orders, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1992.

2. Section 602.6111 as amended by this Act, relating to use of alternative personal identification numbers on documents filed with the clerk of the district court, being deemed of immediate importance, takes effect upon enactment and applies retroactively to July 1, 1993.

3. Section 252D.8, subsection 1, unnumbered paragraph 1, as amended by this Act, relating to immediate income withholding, and sections 252G.1, 252G.3, subsection 1, and 252G.4, as amended by this Act, relating to the central employee registry, being deemed of immediate importance, take effect upon enactment and apply retroactively to January 1, 1994.

4. Section 85.59, unnumbered paragraph 2, as amended by this Act, relating to community service for obligors found in contempt of court, section 252B.20, subsection 1, paragraph "b", as amended by this Act, relating to recipients of public assistance, section 252B.21, subsection 1, as amended by this Act, relating to notice for seek employment orders, and section 669.2, subsection 4, as amended by this Act, relating to liability for persons performing community service, being deemed of immediate importance, take effect upon enactment.

5. Sections 40, 41 and 46 through 48 of this Act, being deemed of immediate importance, take effect upon enactment.

6. Sections 40, 41 and 46 through 48 of this Act apply to any action to overcome paternity, including any paternity determination made prior to the effective date of sections 40, 41 and 46 through 48 of this Act.

Approved May 11, 1994

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## CHAPTER 1172

### JUVENILE JUSTICE

*S.F. 2319*

**AN ACT** relating to juvenile justice by establishing or enhancing penalties for delinquent acts which may be committed by juveniles, establishing or enhancing penalties for public offenses relating to juvenile justice, authorizing searches of student lockers in a school without advance notice under certain circumstances, delaying the repeal of the interception of communications law, providing for the commitment of persons determined to be sexually violent predators, and making related appropriations and providing effective dates.

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

Section 1. Section 80B.11, Code Supplement 1993, is amended by adding the following new subsection:

**NEW SUBSECTION.** 3A. Within the existing curriculum, expand training regarding racial and cultural awareness and dealing with gang-affected youth.

Sec. 2. Section 123.47, Code 1993, is amended to read as follows:

**123.47 PERSONS UNDER THE AGE OF EIGHTEEN.**

A person shall not sell, give, or otherwise supply alcoholic liquor, wine, or beer to any person knowing or having reasonable cause to believe that person to be under the age of eighteen, and a person or persons under the age of eighteen shall not purchase or attempt to purchase, or individually or jointly have alcoholic liquor, wine, or beer in their possession or control; except in the case of liquor, wine, or beer given or dispensed to a person under the age of eighteen within a private home and with the knowledge, presence, and consent of the parent or guardian, or with the signed, written consent of the parent or guardian specifying the date and place for the consumption and displayed by the person upon demand, for beverage or medicinal purposes or as administered to the person by either a physician or dentist for medicinal