

members of the staff of a dispute resolution center under chapter 679, that is under contract to the court to provide mediation services pursuant to this Act.

To qualify as a mediator, a person must have twenty-five hours of training in mediation techniques and mediation procedures as they apply to the Iowa court system.

8. Mediation proceedings under this Act shall be held in private. Except for the contents of an agreement signed by the parties and the mediator, all verbal and written communications relating to the subject matter of the mediation and transmitted between any party and the mediator or any other person present during any stage of the proceeding are confidential communications. The mediator or a party or other person shall not be examined in any judicial or administrative proceeding regarding the contents of the agreement or any communications made confidential by this Act or subject to judicial or administrative process requiring the disclosure of these confidential communications without the consent of the parties. However, this Act does not prohibit the mediator's reporting of information concerning abuse if the mediator is otherwise required by law to report the information.

9. Except as otherwise provided in the mediation order issued pursuant to this Act, the mediator shall exclude counsel from participation in the mediation proceeding unless the mediator determines that including counsel is appropriate or necessary.

10. The mediator shall consider the needs and interests of the child. The mediator may interview the child and may require the child's participation in the proceeding if the mediator determines the child's participation is appropriate or necessary.

11. Any agreement reached by the parties as a result of mediation shall be reported to the court on or before the reporting date established by the court. The agreement may include supporting factual information.

12. If the parties have not reached agreement as a result of mediation, the mediator shall report that fact to the court on or before the reporting date established by the court. The report shall state the mediation procedures undertaken and other nonconfidential matters that the court requires. This report shall be a part of the record unless otherwise ordered by the court.

13. The costs of mediation procedures shall be paid by the parties unless one or both of the parties are indigent, pursuant to rules prescribed by the administrator.

Approved May 15, 1989

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## CHAPTER 166

### CHILD SUPPORT

*H.F. 403*

**AN ACT** relating to child support awards by requiring the application of uniform support guidelines by the courts and the department of human services and providing an effective date.

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

Section 1. Section 234.39, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

#### 234.39 RESPONSIBILITY FOR COST OF SERVICES.

It is the intent of this chapter that an individual receiving foster care services and the individual's parents or guardians, shall have primary responsibility for paying the cost of the care and services. The support obligation established and adopted under this section shall be consistent with the limitations on legal liability established under sections 222.78 and 230.15, and by any other statute limiting legal responsibility for support which may be imposed on

a person for the cost of care and services provided by the department. Support obligations shall be established as follows:

1. For an individual to whom section 234.35, subsection 2 or 4, or section 234.36 is applicable, a dispositional order of the juvenile court requiring the provision of foster care 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. The court 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 may adjust 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. The order 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 enter the disbursements in a record book. If payments are not made as ordered, the child support recovery unit shall certify a default to the court and the court may, on its own motion, proceed under section 598.22 or 598.23. An order entered under this subsection may be modified only in accordance with the guidelines prescribed under section 598.21, subsection 8.

2. For an individual served by the department of human services under section 234.35, subsection 3, the department shall determine the obligation of the individual's parent or guardian in accordance with the child support guidelines prescribed under section 598.21, subsection 4. However, the department may adjust the prescribed obligation for expenses related to goals and objectives of a case permanency plan as defined under section 237.15. An obligation determined under this subsection may be modified only in accordance with conditions under section 598.21, subsection 8.

Sec. 2. Section 252A.3, subsections 1 and 2, Code 1989, are amended to read as follows:

1. A spouse in one state is hereby declared to be liable for the support of the spouse and any child or children under eighteen years of age and any other dependent residing or found in the same state or in another state having substantially similar or reciprocal laws, ~~and, if possessed of sufficient means or able to earn such means, may be required to pay for their support a fair and reasonable sum according to the spouse's means, as may be determined by the.~~ The court having jurisdiction of the respondent in a proceeding instituted under this chapter shall establish the respondent's monthly support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4.

2. A parent in one state is hereby declared to be liable for the support of the parent's child or children under eighteen years of age residing or found in the same state or in another state having substantially similar or reciprocal laws, whenever the other parent of such child or children is dead, or cannot be found, or is incapable of supporting ~~such the child or children, and, if the liable parent is possessed of sufficient means or able to earn such the means, the liable parent may be required to pay for the support of such child or children a fair and reasonable sum according to the parent's means, as may be determined by the.~~ The court having jurisdiction of the respondent in a proceeding instituted under this chapter shall establish the respondent's monthly support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4.

Sec. 3. Section 252A.6, subsection 11, Code 1989, is amended to read as follows:

11. If, on the return day of the summons, the respondent appears at the time and place specified in the summons and fails to answer the petition or admits the allegations of the petition, or, if, after a hearing has been duly held by the court in the responding state in accordance

with this section, the court has found and determined that the prayer of the petitioner, or any part of the prayer, is supported by the evidence adduced in the proceeding, and that the petitioner is in need of and entitled to support from the respondent, the court shall make and enter an order directing the respondent to furnish support to the petitioner and to pay a sum as the court shall determine, having due regard to the parties' means and circumstances determines pursuant to section 598.21, subsection 4. A certified copy of the order shall be transmitted by the court to the court in the initiating state and the copy shall be filed with and made a part of the records of the court in the proceeding. Upon entry of an order for support or upon failure of a person to make payments pursuant to an order for support, the court may require the respondent to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support. Upon the respondent's failure to pay the support under the order, the court may declare the security, bond, or other guarantee forfeited.

Sec. 4. Section 252C.2, subsections 2 and 3, Code 1989, 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, the administrator may establish a support debt in an amount determined to be consistent with the debtor's ability to pay and the needs of the dependent child, both as to amounts accrued and accruing, and with the schedule of minimum support guidelines in pursuant to section ~~252C.10~~ 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, the administrator may establish a support debt in favor of the individual or the individual's child or ward and against the responsible person, in an amount determined to be consistent with the responsible person's ability to pay and the needs of the dependent child, both as to amounts accrued and accruing, and with the schedule of minimum support guidelines in pursuant to section ~~252C.10~~ 598.21, subsection 4.

Sec. 5. Section 252C.4, subsection 4, Code 1989, is amended to read as follows:

4. The court shall ~~consider the schedule of minimum support guidelines in section 252C.10 in establishing~~ establish the monthly support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4.

Sec. 6. Section 598.21, subsection 4, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

4. The supreme court is authorized to prescribe uniform child support guidelines and criteria to be effective October 12, 1989, and to review the guidelines at least once every four years, pursuant to the federal Family Support Act of 1988, Pub. L. No. 100-485.

a. Upon every judgment of annulment, dissolution, or separate maintenance, the court may order either parent or both parents to pay an amount reasonable and necessary for supporting a child. In establishing the amount of support, consideration shall be given to the responsibility of both parents to support and provide for the welfare of the minor child and of a child's need, whenever practicable, for a close relationship with both parents. There shall be a rebuttable presumption that the amount of child support which would result from the application of the guidelines prescribed by the supreme court is the correct amount of child support to be awarded. A variation from the guidelines shall not be considered by a court without a record

or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate as determined under the criteria prescribed by the supreme court.

b. The guidelines prescribed by the supreme court shall be used by the department of human services in determining child support payments under sections 252C.2 and 252C.4. A variation from the guidelines shall not be considered by the department without a record or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate as determined under criteria prescribed by the supreme court.

Sec. 7. Section 675.25, Code 1989, is amended to read as follows:

675.25 FORM OF JUDGMENT – CONTENTS OF SUPPORT ORDER – COSTS.

~~The judgment shall be for periodic amounts, equal or varying, having regard to the obligation of the father under section 675.1, as the court directs. Upon a finding or verdict of paternity pursuant to section 675.24, the court shall establish the father's monthly support payment and the amount of the support debt accrued or accruing pursuant to section 598.21, subsection 4, until the child reaches majority or until the child finishes high school, if after majority. The court may order the father to pay amounts the court deems appropriate for past and future support and maintenance of the child and for the reasonable and necessary expenses incurred by or for the mother in connection with prenatal care, the birth of the child, and postnatal care of the child and the mother. The court may award the prevailing party the reasonable costs of suit, including but not limited to reasonable attorney fees.~~

Sec. 8. Section 252C.10, Code 1989, is repealed.

Sec. 9. This Act takes effect October 12, 1989.

Approved May 15, 1989

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## CHAPTER 167

### PAYMENT FOR UNIFORM CITATION AND COMPLAINT SUPPLIES

*H.F. 572*

**AN ACT** relating to the payment for uniform citation and complaint forms.

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

Section 1. Section 805.6, subsection 3, Code 1989, is amended to read as follows:

3. Supplies of the uniform citation and complaint for municipal corporations, and county agencies shall be paid for by the county. ~~Supplies of the uniform citation and complaint for, and all other agencies shall be paid for out of the budget of the municipal corporation, county, or other agency concerned receiving the fine resulting from use of the citation and complaint.~~

Approved May 15, 1989