

## CHAPTER 252D

## SUPPORT PAYMENTS — INCOME WITHHOLDING

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## SUBCHAPTER I

## DELINQUENT PAYMENTS

**252D.1 Delinquent support payments.**

If support payments ordered under this chapter or chapter 232, 234, 252A, 252C, 252E, 252F, 598, 600B, or any other applicable chapter, or under a comparable statute of a foreign jurisdiction, as certified to the child support recovery unit established in section 252B.2, are not paid to the clerk of the district court or the collection services center pursuant to section 598.22 and become delinquent in an amount equal to the payment for one month, the child support recovery unit may enter an ex parte order or, upon application of a person entitled to receive the support payments, the district court may enter an ex parte order, notifying the person whose income is to be withheld, of the delinquent amount, of the amount of income to be withheld, and of the procedure to file a motion to quash the order for income withholding, and ordering the withholding of specified sums to be deducted from the delinquent person's income as defined in section 252D.16 sufficient to pay the support obligation and, except as provided in section 598.22, requiring the payment of such sums to the clerk of the district court or the collection services center. Beginning October 1, 1999, all income withholding payments shall be paid to the collection services center. Notification of income withholding shall be provided to the obligor and to the payor of income pursuant to section 252D.17.

84 Acts, ch 1239, §1; 85 Acts, ch 100, §3; 85 Acts, ch 178, §2; 86 Acts, ch 1191, §1; 86 Acts, ch 1245, §1421; 86 Acts, ch 1246, §317, 323; 88 Acts, ch 1218, §4; 90 Acts, ch 1224, §24; 90 Acts, ch 1253, §120; 92 Acts, ch 1195, §104; 93 Acts, ch 78, §10; 93 Acts, ch 79, §45; 97 Acts, ch 175, §56; 98 Acts, ch 1170, §7; 2007 Acts, ch 22, §57

**252D.2** Repealed by 97 Acts, ch 175, § 69. See § 252D.31.

**252D.3 Notice of income withholding.**

All orders for support entered on or after July 1, 1984, shall notify the person ordered to pay support of the mandatory withholding of income required under section 252D.1. However, this subchapter is sufficient notice of implementation of mandatory withholding of income under section 252D.1 without any further notice.

84 Acts, ch 1239, §3; 85 Acts, ch 100, §4; 97 Acts, ch 175, §57; 2005 Acts, ch 112, §8

**252D.4 through 252D.7** Repealed by 90 Acts, ch 1123, § 14. See § 252D.18 – 252D.21.

## SUBCHAPTER II

### IMMEDIATE INCOME WITHHOLDING

**252D.8 Persons subject to immediate income withholding.**

1. In a support order issued or modified on or after November 1, 1990, for which services are being provided by the child support recovery unit, 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. 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:

a. One of the parties demonstrates and the court or child support recovery unit finds there is good cause not to require immediate withholding. A finding of good cause shall be based on, at a minimum, written findings and conclusions by the court or administrative authority as to why implementing immediate withholding would not be in the best interests of the child. In cases involving modifications, the findings shall also include proof of timely payment of previously ordered support.

b. A written agreement is reached between both parties which provides for an alternative arrangement. If the support payments have been assigned to the department of human services pursuant to chapter 234 or 239B, or a comparable statute of another jurisdiction, the department shall be considered a party to the support order, and a written agreement pursuant to this section to waive immediate withholding is void unless approved by the child support recovery unit. Any agreement existing at the time an assignment of support is made pursuant to chapter 234 or 239B or pursuant to a comparable statute of another jurisdiction shall not prevent the child support recovery unit from implementing immediate withholding.

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

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

b. The date the custodial parent or party to the proceeding requests that the withholding begin, if the request is approved by the district court or, in cases in which services are being provided pursuant to chapter 252B, if the child support recovery unit approves the request.

90 Acts, ch 1123, §1; 93 Acts, ch 78, §11; 94 Acts, ch 1171, §24; 97 Acts, ch 41, §32

**252D.9 Sums subject to immediate withholding.**

Specified sums shall be deducted from the obligor's income sufficient to pay the support obligation and any judgment established or delinquency accrued under the support order. The amount withheld pursuant to an income withholding order or notice of order for income withholding shall not exceed the amount specified in 15 U.S.C. § 1673(b).

90 Acts, ch 1123, §2; 92 Acts, ch 1195, §206; 97 Acts, ch 175, §58

**252D.10 Notice of immediate income withholding.**

An order for support entered after November 1, 1990, shall contain the notice of immediate income withholding. However, this subchapter is sufficient notice for implementation of immediate income withholding without any further notice.

90 Acts, ch 1123, §3; 97 Acts, ch 175, §59; 2005 Acts, ch 112, §9

**252D.11** Repealed by 97 Acts, ch 175, § 69. See § 252D.31.

**252D.12 through 252D.14** Repealed by 93 Acts, ch 78, §47. See §252D.17 and 252D.18.

**252D.15** Reserved.

## SUBCHAPTER III

## GENERAL PROVISIONS

**252D.16 Definitions.**

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

1. “*Income*” means all of the following:

a. Any periodic form of payment due an individual, regardless of source, including but not limited to wages, salaries, commissions, bonuses, workers’ compensation, disability payments, payments pursuant to a pension or retirement program, and interest.

b. A sole payment or lump sum as provided in section 252D.18C, including but not limited to payment from an estate including inheritance, or payment for personal injury or property damage.

c. Irregular income as defined in section 252D.18B.

2. “*Payor of income*” or “*payor*” means and includes, but is not limited to, an obligor’s employer, trustee, the state of Iowa and all governmental subdivisions and agencies and any other person from whom an obligor receives income.

3. “*Support*” or “*support payments*” means any amount which the court or administrative agency may require a person to pay for the benefit of a child under a temporary order or a final judgment or decree entered under chapter 232, 234, 252A, 252C, 252F, 252H, 598, 600B, or any other comparable chapter, and may include child support, maintenance, medical support as defined in chapter 252E, spousal support, and any other term used to describe these obligations. These obligations may include support for a child of any age who is dependent on the parties to the dissolution proceedings because of physical or mental disability. The obligations may include support for a child eighteen or more years of age with respect to whom a child support order has been issued pursuant to the laws of a foreign jurisdiction. These obligations shall not include amounts for a postsecondary education subsidy as defined in section 598.1.

97 Acts, ch 175, §60; 2005 Acts, ch 112, §10

**252D.16A Income withholding order — child support recovery unit.**

If support payments are ordered under this chapter, chapter 232, 234, 252A, 252C, 252E, 252F, 252H, 598, 600B, or any other applicable chapter, or under a comparable statute of a foreign jurisdiction, and if income withholding relative to such support payments is allowed under this chapter, the child support recovery unit may enter an ex parte order notifying the person whose income is to be withheld of the procedure to file a motion to quash the order for income withholding, and ordering the withholding of sums to be deducted from the delinquent person’s income as defined in section 252D.16 sufficient to pay the support obligation and requiring the payment of such sums to the collection services center. The child support recovery unit shall include the amount of any delinquency and the amount to be withheld in the notice provided to the obligor pursuant to section 252D.17A. Notice of

income withholding shall be provided to the obligor and to the payor of income pursuant to sections 252D.17 and 252D.17A.

2006 Acts, ch 1119, §3, 11

**252D.17 Notice to payor of income — duties and liability — criminal penalty.**

The district court shall provide notice by sending a copy of the order for income withholding or a notice of the order for income withholding to the obligor and the obligor's payor of income by regular mail, with proof of service completed according to rule of civil procedure 1.442. The child support recovery unit shall provide notice of the income withholding order by sending a notice of the order to the obligor's payor of income by regular mail or by electronic means. Proof of service may be completed according to rule of civil procedure 1.442. The child support recovery unit's notice of the order may be sent to the payor of income on the same date that the order is sent to the clerk of court for filing. In all other instances, the income withholding order shall be filed with the clerk of court prior to sending the notice of the order to the payor of income. In addition to the amount to be withheld for payment of support, the order or the notice of the order shall be in a standard format as prescribed by the unit and shall include all of the following information regarding the duties of the payor in implementing the withholding order:

1. The withholding order or notice of the order for income withholding for child support or child support and spousal support has priority over a garnishment or an assignment for any other purpose.

2. As reimbursement for the payor's processing costs, the payor may deduct a fee of no more than two dollars for each payment in addition to the amount withheld for support. The payor of income is not required to vary the payroll cycle to comply with the frequency of payment of a support order.

3. The amount withheld for support, including the processing fee, shall not exceed the amounts specified in 15 U.S.C. § 1673(b).

4. The income withholding order is binding on an existing or future payor of income ten days after receipt of the copy of the order or the notice of the order, and is binding whether or not the copy of the order received is file-stamped.

5. The payor shall send the amounts withheld to the collection services center or the clerk of the district court pursuant to section 252B.14 within seven business days of the date the obligor is paid. "*Business day*" means a day on which state offices are open for regular business.

6. The payor may combine amounts withheld from the obligors' income in a single payment to the clerk of the district court or to the collection services center, as appropriate. Whether combined or separate, payments shall be identified by the name of the obligor, account number, amount, and the date withheld. If payments for multiple obligors are combined, the portion of the payment attributable to each obligor shall be specifically identified.

7. The withholding is binding on the payor until further notice by the court or the child support recovery unit.

8. If the payor, with actual knowledge and intent to avoid legal obligation, fails to withhold income or to pay the amounts withheld to the collection services center or the clerk of court in accordance with the provisions of the order, the notice of the order, or the notification of payors of income provisions established in section 252B.13A, the payor commits a simple misdemeanor for a first offense and is liable for the accumulated amount which should have been withheld, together with costs, interest, and reasonable attorney fees related to the collection of the amounts due from the payor. For each subsequent offense prescribed under this subsection, the payor commits a serious misdemeanor and is liable for the accumulated amount which should have been withheld, together with costs, interest, and reasonable attorney fees related to the collection of the amounts due from the payor.

9. The payor shall promptly notify the court or the child support recovery unit when the obligor's employment or other income terminates, and provide the obligor's last known address and the name and address of the obligor's new employer, if known.

10. Any payor who discharges an obligor, refuses to employ an obligor, or takes

disciplinary action against an obligor based upon income withholding is guilty of a simple misdemeanor. A withholding order or the notice of the order for income withholding has the same force and effect as any other district court order, including, but not limited to, contempt of court proceedings for noncompliance.

11. *a.* Beginning July 1, 1997, if a payor of income does business in another state through a registered agent and receives a notice of income withholding issued by another state the payor shall, and beginning January 1, 1998, any payor of income shall withhold funds as directed in a notice issued by another state, except that a payor of income shall follow the laws of the obligor's principal place of employment when determining all of the following:

- (1) The payor's fee for processing an income withholding payment.
- (2) The maximum amount permitted to be withheld from the obligor's income.
- (3) The time periods for implementing the income withholding order and forwarding the support payments.
- (4) The priorities for withholding and allocating income withheld for multiple child support obligees.
- (5) Any withholding terms or conditions not specified in the order.

*b.* A payor of income who complies with an income withholding notice that is regular on its face shall not be subject to any civil liability to any individual or agency for conduct in compliance with the notice.

12. The payor of income shall comply with chapter 252K when receiving a notice of income withholding from another state.

13. The department shall establish criteria and a phased-in schedule to require, no later than June 30, 2015, payors of income to electronically transmit the amounts withheld under an income withholding order. The department shall assist payors of income in complying with the required electronic transmission, and shall adopt rules setting forth procedures for use in electronic transmission of funds, and exemption from use of electronic transmission taking into consideration any undue hardship electronic transmission creates for payors of income.

93 Acts, ch 78, §12; 95 Acts, ch 52, §5, 6; 96 Acts, ch 1141, § 10, 11; 97 Acts, ch 175, §61, 70, 72; 98 Acts, ch 1170, §8; 2000 Acts, ch 1125, §2, 4; 2006 Acts, ch 1119, §4; 2010 Acts, ch 1031, §337

[T] NEW subsection 13

#### **252D.17A Notice to obligor of implementation of income withholding order.**

The child support recovery unit or the district court shall send a notice of the income withholding order to the obligor at the time the notice is sent to the payor of income.

97 Acts, ch 175, §62

#### **252D.18 Modification or termination of withholding.**

1. The court or the child support recovery unit may, by ex parte order, modify a previously entered income withholding order if the court or the unit determines any of the following:

- a.* There has been a change in the amount of the current support obligation.
- b.* The amount required to be withheld under the income withholding order is in error.
- c.* Any past due support debt has been paid in full. Should a delinquency later accrue, the withholding order may be modified to secure payment toward the delinquency.
- d.* There has been a change in the rules adopted by the department pursuant to chapter 17A regarding the amount of income to be withheld to pay a delinquency.

2. The child support recovery unit may modify an amount specified in an income withholding order or notice of income withholding by providing notice to the payor of income and the obligor pursuant to sections 252D.17 and 252D.17A.

3. The court or the child support recovery unit may, by ex parte order, terminate an income withholding order when the current support obligation has terminated and when the delinquent support obligation has been fully satisfied as applicable to all of the children covered by the income withholding order.

4. In no case shall payment of overdue support be the sole basis for termination of withholding.

90 Acts, ch 1123, §8; 91 Acts, ch 177, §6; 92 Acts, ch 1195, §106; 93 Acts, ch 78, §13; 98 Acts, ch 1170, §44; 2006 Acts, ch 1119, §5, 11

#### **252D.18A Multiple income withholding orders — amounts withheld by payor.**

When the obligor is responsible for paying more than one support obligation and the payor of income has received more than one income withholding order or notice of an order for the obligor, the payor shall withhold amounts in accordance with all of the following:

1. The total of all amounts withheld shall not exceed the amounts specified in 15 U.S.C. § 1673(b). For orders or notices issued by the child support recovery unit, the limit for the amount to be withheld shall be specified in the order or notice.

2. As reimbursement for the payor's processing costs, the payor may deduct a fee of no more than two dollars for each payment withheld in addition to the amount withheld for support.

3. Priority shall be given to the withholding of current support rather than delinquent support. The payor shall not allocate amounts withheld in a manner which results in the failure to withhold an amount for one or more of the current support obligations.

a. To arrive at the amount to be withheld for each obligee, the payor shall total the amounts due for current support under the income withholding orders and the notices of orders and determine the proportionate share for each obligee. The proportionate share shall be determined by dividing the amount due for current support for each order or notice of order by the total due for current support for all orders and notices of orders. The results are the percentages of the obligor's net income which shall be withheld for each obligee.

b. If, after completing the calculation in paragraph "a", the withholding limit specified under subsection 1 has not been attained, the payor shall total the amounts due for arrearages and determine the proportionate share for each obligee. The proportionate share amounts shall be established utilizing the procedures established in paragraph "a" for current support obligations.

4. The payor shall identify and report payments by the obligor's name, account number, amount, and date withheld pursuant to section 252D.17. If payments for multiple obligees are combined, the portion of the payment attributable to each obligee shall be specifically identified only if the payor is directed to do so by the child support recovery unit.

93 Acts, ch 78, §14; 96 Acts, ch 1141, §12, 13; 97 Acts, ch 175, §63, 64; 98 Acts, ch 1170, §9; 2002 Acts, ch 1018, §1, 2; 2009 Acts, ch 15, §1

#### **252D.18B Irregular income.**

When payment of income is irregular, and an order for immediate or mandatory income withholding has been entered by the child support recovery unit or the district court, the income payor shall withhold income equal to the total that would have been withheld had there been regular monthly income. The amounts withheld shall not exceed the amounts specified in 15 U.S.C. § 1673(b). For the purposes of this section, an income source is irregular when there are periods in excess of one month during which the income payor makes no payment to the obligor and the periods are not the result of termination or suspension of employment.

93 Acts, ch 78, §15

#### **252D.18C Withholding from lump sum payments.**

The child support recovery unit or the district court may enter an ex parte order for income withholding when the obligor is paid by a lump sum income source. When a sole payment is made or payment occurs at two-month or greater intervals, the withholding order may include all current and delinquent support due through the current month, but shall not exceed the amounts specified in 15 U.S.C. § 1673(b).

93 Acts, ch 78, §16

**252D.19 Other remedies.**

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

90 Acts, ch 1123, §9

**252D.19A Disparity between order and pay dates — not delinquent.**

1. An obligor whose support payments are automatically withheld from the obligor's paycheck shall not be delinquent or in arrears if all of the following conditions are met:

a. Any delinquency or arrearage is caused solely by a disparity between the schedules of the obligor's regular pay dates and the scheduled date the support is due.

b. The amount calculated to be withheld is such that the total amount of current support to be withheld from the paychecks of the obligor and the amount ordered to be paid in the support order are the same on an annual basis.

c. The automatic deductions for support are continuous and occurring.

2. If the unit takes an enforcement action during a calendar year against an obligor and the obligor is not delinquent or in arrears solely due to the applicability of this section to the obligor, upon discovering the circumstances, the unit shall promptly discontinue the enforcement action.

97 Acts, ch 175, §65

**252D.20 Administration of income withholding procedures.**

The child support recovery unit is designated as the entity of the state to administer income withholding in accordance with the procedures specified for keeping adequate records to document, track, and monitor support payments on cases subject to Tit. IV-D of the federal Social Security Act. Until October 1, 1999, the clerks of the district court are designated as the entities for administering income withholding on cases which are not subject to Tit. IV-D. Beginning October 1, 1999, the collection services center is designated as the entity for administering income withholding for cases which are not subject to Tit. IV-D. The collection services center's responsibilities for administering income withholding in cases not subject to Tit. IV-D are limited to the receipt, recording, and disbursement of income withholding payments and to responding to requests for information on the current status of support payments pursuant to section 252B.13A. Notwithstanding section 622.53, in cases where the court or the child support recovery unit is enforcing a foreign judgment through income withholding, a certified copy of the underlying judgment is sufficient proof of authenticity.

90 Acts, ch 1123, §10; 92 Acts, ch 1195, §404; 98 Acts, ch 1170, §10; 2010 Acts, ch 1061, §180

[T] Federal Act reference updated pursuant to Code editor directive

**252D.21 Penalty for misrepresentation.**

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

90 Acts, ch 1123, §11; 97 Acts, ch 175, §66

**252D.22 Rules.**

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

90 Acts, ch 1123, §12

**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. In lieu of any signature on the order which may otherwise be required by law or rule, the order shall have affixed the name and address of the appropriate child support office. For the purposes of demonstrating

compliance by the payor of income, the copy of the withholding order or the notice of the order received, whether or not the copy of the order is file-stamped, 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 a payor of income for noncompliance. However, any information contained in the income withholding order or the notice of the 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.

92 Acts, ch 1195, §207; 94 Acts, ch 1171, §25; 95 Acts, ch 52, §7; 96 Acts, ch 1141, §14; 97 Acts, ch 175, §67; 99 Acts, ch 127, §2

#### **252D.24 Applicability to support orders of foreign jurisdictions.**

1. An income withholding order may be entered to enforce a support order of a foreign jurisdiction. The foreign support order may be entered and filed with the clerk of the district court at the time the income withholding order is entered. Entry of the foreign support order under this subsection does not constitute registration of the order.

2. Income withholding for a support order issued by a foreign jurisdiction is governed by chapter 252K, article 5 or 6, and this chapter, as appropriate.

93 Acts, ch 78, §17; 97 Acts, ch 175, §71; 2005 Acts, ch 112, §11

#### **252D.25 Limitations on scope of proceedings.**

1. Issues related to visitation, custody, or other provisions not related to the support provisions of a support order are not grounds for a motion to quash, revoke, suspend, or stay a withholding order.

2. Support orders shall not be modified under a motion to quash a withholding order.

93 Acts, ch 78, §18

#### **252D.26 through 252D.29 Reserved.**

#### **252D.30 Ex parte order — provisions for medical support.**

An ex parte order entered under this chapter may also include provisions for enforcement of medical support when medical support provisions are included in the support order. The ex parte order may require income withholding of a dollar amount for medical support or implementation of provision for dependent coverage under a health benefit plan pursuant to chapter 252E.

93 Acts, ch 78, §19

#### **252D.31 Motion to quash.**

An obligor under this chapter may move to quash an income withholding order or a notice of income withholding by filing a motion to quash with the clerk of court.

1. Grounds for contesting a withholding order under this chapter include all of the following:

a. A mistake of fact, which for purposes of this chapter means an error in the amount withheld or the amount of the withholding or the identity of the obligor.

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

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

3. The payor shall withhold and transmit the amount specified in the order or notice of the order of income withholding to the clerk of the district court or the collection services center, as appropriate, until the notice that a motion to quash has been granted is received.

97 Acts, ch 175, §68