

## CHAPTER 252H

## ADJUSTMENT AND MODIFICATION OF SUPPORT ORDERS

Referred to in §234.39, 252B.3, 252B.5, 252B.9, 252B.26, 252D.16, 252D.16A, 252E.1, 252E.1A, 252J.1, 598.21C, 598.22B

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## SUBCHAPTER I

## GENERAL PROVISIONS

Referred to in §252H.24

**252H.1 Purpose and intent.**

This chapter is intended to provide a means for state compliance with Tit. IV-D of the federal Social Security Act, as amended, requiring states to provide procedures for the review and adjustment of support orders being enforced under Tit. IV-D of the federal Social Security Act, and also to provide an expedited modification process when review and adjustment procedures are not required, appropriate, or applicable. Actions under this chapter shall be initiated only by the child support recovery unit.

93 Acts, ch 78, §24; 97 Acts, ch 175, §93

**252H.2 Definitions.**

1. As used in this chapter, unless the context otherwise requires, “*administrator*”, “*caretaker*”, “*court order*”, “*department*”, “*dependent child*”, “*medical support*”, and “*responsible person*” mean the same as defined in section 252C.1.

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

- a. “Act” means the federal Social Security Act.
- b. “Adjustment” applies only to the child support provisions of a support order and means either of the following:
- (1) A change in the amount of child support based upon an application of the child support guidelines established pursuant to section 598.21B.
  - (2) An addition of or change to provisions for medical support as provided in chapter 252E.
- c. “Child” means a child as defined in section 252B.1.
- d. “Child support agency” means any state, county, or local office or entity of another state that has the responsibility for providing child support enforcement services under Tit. IV-D of the Act.
- e. “Child support recovery unit” or “unit” means the child support recovery unit created pursuant to section 252B.2.
- f. “Cost-of-living alteration” means a change in an existing child support order which equals an amount which is the amount of the support obligation following application of the percentage change of the consumer price index for all urban consumers, United States city average, as published in the federal register by the federal department of labor, bureau of labor statistics.
- g. “Determination of controlling order” means the process of identifying a child support order which must be recognized pursuant to section 252K.207 and 28 U.S.C. § 1738B, when more than one state has issued a support order for the same child and the same obligor, and may include a reconciliation of arrearages with information related to the calculation. Registration of a foreign order is not necessary for a court or the unit to make a determination of controlling order.
- h. “Modification” means either of the following:
- (1) A change, correction, or termination of an existing support order.
  - (2) The establishment of a child or medical support obligation in a previously established order entered pursuant to chapter 234, 252A, 252C, 598, 600B, or any other support proceeding, in which such support was not previously established, or in which support was previously established and subsequently terminated prior to the emancipation of the children affected.
- i. “Parent” means, for the purposes of requesting a review of a support order and for being entitled to notice under this chapter:
- (1) The individual ordered to pay support pursuant to the order.
  - (2) An individual or entity entitled to receive current or future support payments pursuant to the order, or pursuant to a current assignment of support including but not limited to an agency of this or any other state that is currently providing public assistance benefits to the child for whom support is ordered and any child support agency. Service of notice of an action initiated under this chapter on an agency is not required, but the agency may be advised of the action by other means.
- j. “Public assistance” means benefits received in this state or any other state, under Tit. IV-A (temporary assistance to needy families), IV-E (foster care), or XIX (Medicaid) of the Act.
- k. “Review” means an objective evaluation conducted through a proceeding before a court, administrative body, or an agency, of information necessary for the application of a state’s mandatory child support guidelines to determine:
- (1) The appropriate monetary amount of support.
  - (2) Provisions for medical support.
- l. “State” means “state” as defined in section 252K.101.
- m. “Support order” means an order for support issued pursuant to chapter 232, 234, 252A, 252C, 252E, 252F, 252H, 598, 600B, or any other applicable chapter, or under a comparable statute of a foreign jurisdiction as registered with the clerk of court or certified to the child support recovery unit.

93 Acts, ch 78, §25; 93 Acts, ch 79, §47; 97 Acts, ch 175, §94 – 96; 98 Acts, ch 1170, §35; 2002 Acts, ch 1018, §10; 2005 Acts, ch 69, §20; 2007 Acts, ch 218, §179, 180, 187; 2008 Acts, ch 1019, §18, 20; 2009 Acts, ch 41, §263; 2011 Acts, ch 67, §2

Referred to in §252B.1, 252I.4, 252J.1

[SP] For transition provisions applicable to existing child support recovery unit rules, procedures, definitions, and requirements, and for nullification of 441 IAC rule 98.3, see 2007 Acts, ch 218, §186

**252H.3 Scope of the administrative adjustment or modification — role of district court in contested cases.**

1. Any action initiated under this chapter, including any court hearing resulting from an action, shall be limited in scope to the adjustment or modification of the child or medical support or cost-of-living alteration of the child support provisions of a support order. A determination of a controlling order is within the scope of this chapter. If the social security disability provisions of sections 598.22 and 598.22C apply, a determination of the amount of delinquent support due is within the scope of this chapter.

2. Nonsupport issues shall not be considered by the unit or the court in any action resulting under this chapter.

3. Actions initiated by the unit under this chapter shall not be subject to contested case proceedings or further review pursuant to chapter 17A and resulting court hearings following certification shall be an original hearing before the district court.

93 Acts, ch 78, §26; 97 Acts, ch 175, §97; 98 Acts, ch 1170, §36; 2002 Acts, ch 1018, §11  
Referred to in §252H.8

**252H.3A Adding a party.**

A mother or father may be added as a proper party defendant to a support order upon service of a notice as provided in this chapter and without a court order as provided in the rules of civil procedure.

2007 Acts, ch 218, §181, 187; 2008 Acts, ch 1019, §18, 20

[SP] For transition provisions applicable to existing child support recovery unit rules, procedures, definitions, and requirements, and for nullification of 441 IAC rule 98.3, see 2007 Acts, ch 218, §186

**252H.4 Role of the child support recovery unit.**

1. The unit may administratively adjust or modify or may provide for an administrative cost-of-living alteration of a support order entered under chapter 234, 252A, 252C, 598, or 600B, or any other support chapter if the unit is providing enforcement services pursuant to chapter 252B. The unit is not required to intervene to administratively adjust or modify or provide for an administrative cost-of-living alteration of a support order under this chapter.

2. The unit is a party to an action initiated pursuant to this chapter.

3. The unit shall conduct a review to determine whether an adjustment is appropriate or, upon the request of a parent or upon the unit's own initiative, determine whether a modification is appropriate.

4. The unit shall adopt rules pursuant to chapter 17A to establish the process for the review of requests for adjustment, the criteria and procedures for conducting a review and determining when an adjustment is appropriate, the procedure and criteria for a cost-of-living alteration, the criteria and procedure for a request for review pursuant to section 252H.18A, and other rules necessary to implement this chapter.

5. Legal representation of the unit shall be provided pursuant to section 252B.7, subsection 4.

93 Acts, ch 78, §27; 97 Acts, ch 175, §98

**252H.5 Fees and cost recovery for review — adjustment — modification.**

The unit shall, consistent with applicable federal law, charge the following fees for providing the services described in this chapter:

1. A parent ordered to provide support, who requests a review of a support order under subchapter II, shall file an application for services and pay an application fee pursuant to section 252B.4.

2. A parent requesting a service shall pay the fee established for that service as established under this subsection. The fees established are not applicable to a parent who as a condition of eligibility for receiving public assistance benefits has assigned the rights to child or medical support for the order to be reviewed. The following fees shall be paid for the following services:

a. A fee for conducting the review, to be paid at the time the request for review is submitted to the unit. If the request for review is denied for any reason, the fee shall be refunded to the

parent making the request. Any request submitted without full payment of the fee shall be denied.

b. A fee for a second review requested pursuant to section 252H.17, to be paid at the time the request for the second review is submitted to the unit. Any request submitted without full payment of the fee shall be denied.

c. A fee for activities performed by the unit in association with a court hearing requested pursuant to section 252H.8.

d. A fee for activities performed by the unit in entering an administrative order to adjust support when neither parent requests a court hearing pursuant to section 252H.8. The fee shall be paid during the postreview waiting period under section 252H.17. If the fee is not paid in full during the postreview notice period, further action shall not be taken by the unit to adjust the order unless the parent not requesting the adjustment pays the fee in full during the postreview waiting period, or unless the children affected by the order reviewed are currently receiving public assistance benefits and the proposed adjustment would result in either an increase in the amount of support or in provisions for medical support for the children.

e. A fee for conducting a conference requested pursuant to section 252H.20.

3. A parent who requests a review of a support order pursuant to section 252H.13, shall pay any service of process fees for service or attempted service of the notice required in section 252H.15. The unit shall not proceed to conduct a review pursuant to section 252H.16 until service of process fees have been paid in full. The service of process fee requirement of this subsection is not applicable to a parent who as a condition of eligibility for public assistance benefits has assigned the rights to child or medical support for the order to be reviewed. Service of process fees charged by a person other than the unit are distinct from any other fees and recovery of costs provided for in this section.

4. The unit shall, consistent with applicable federal law, recover administrative costs in excess of any fees collected pursuant to subsections 1, 2, and 3 for providing services under this chapter and shall adopt rules providing for collection of fees for administrative costs.

5. The unit shall adopt rules pursuant to chapter 17A to establish procedures and criteria to determine the amount of any fees specified in this section and the administrative costs in excess of these fees.

93 Acts, ch 78, §28

#### **252H.6 Collection of information.**

The unit may request, obtain, and validate information concerning the financial circumstances of the parents of a child as necessary to determine the appropriate amount of support pursuant to the guidelines established in section 598.21B, including but not limited to those sources and procedures described in sections 252B.7A and 252B.9. The collection of information does not constitute a review conducted pursuant to section 252H.16.

93 Acts, ch 78, §29; 97 Acts, ch 175, §99; 2005 Acts, ch 69, §21

#### **252H.7 Waiver of notice periods and time limitations.**

1. A parent may waive the fifteen-day prereview waiting period provided for in section 252H.16.

a. Upon receipt of signed requests from both parents waiving the prereview waiting period, the unit may conduct a review of the support order prior to the expiration of the fifteen-day period provided in section 252H.16.

b. If the parents jointly waive the prereview waiting period and the order under review is subsequently adjusted, the signed statements of both parents waiving the waiting period shall be filed in the court record with the order adjusting the support obligation.

2. A parent may waive the postreview waiting period provided for in section 252H.8, subsection 2 or 7, for a court hearing or in section 252H.17 for requesting of a second review.

a. Upon receipt of signed requests from both parents subject to the order reviewed, waiving the postreview waiting period, the unit may enter an administrative order adjusting the support order, if appropriate, prior to the expiration of the postreview waiting period.

b. If the parents jointly waive the postreview waiting period and an administrative order to adjust the support order is entered, the signed statements of both parents waiving the waiting

period shall be filed in the court record with the administrative order adjusting the support obligation.

3. A parent may waive the time limitations established in section 252H.8, subsection 3, for requesting a court hearing, or in section 252H.20 for requesting a conference.

a. Upon receipt of signed requests from both parents who are subject to the order to be modified, waiving the time limitations, the unit may proceed to enter an administrative modification order.

b. If the parents jointly waive the time limitations and an administrative modification order is entered under this chapter, the signed statements of both parents waiving the time limitations shall be filed in the court record with the administrative modification order.

93 Acts, ch 78, §30; 2007 Acts, ch 218, §143, 156; 2010 Acts, ch 1142, §4, 5

Referred to in §252H.16

[SP] Conflicting administrative rule time limits are inapplicable until amended to conform with amendments to this section by 2010 Acts, ch 1142; 2010 Acts, ch 1142, §10

### **252H.8 Certification to court — hearing — default.**

1. For actions initiated under section 252H.15, either parent or the unit may request a court hearing within fifteen days from the date of issuance of the notice of decision under section 252H.16, or within ten days of the date of issuance of the second notice of decision under section 252H.17, whichever is later.

2. For actions initiated under section 252H.14A, either parent or the unit may request a court hearing within ten days of the issuance of the second notice of decision under section 252H.17.

3. For actions initiated under subchapter III, either parent or the unit may request a court hearing within the latest of any of the following time periods:

a. Twenty days from the date of successful service of the notice of intent to modify required under section 252H.19.

b. Ten days from the date scheduled for a conference to discuss the modification action.

c. Ten days from the date of issuance of a second notice of a proposed modification action.

4. The time limitations for requesting a court hearing under this section may be extended by the unit.

5. If a timely written request for a hearing is received by the unit, a hearing shall be held in district court, and the unit shall certify the matter to the district court in the county in which the order subject to adjustment or modification is filed. The certification shall include the following, as applicable:

a. Copies of the notice of intent to review or notice of intent to modify.

b. The return of service, proof of service, acceptance of service, or signed statement by the parent requesting review and adjustment or requesting modification, waiving service of the notice.

c. Copies of the notice of decision and any revised notice as provided in section 252H.16.

d. Copies of any written objections to and request for a second review or conference or hearing.

e. Copies of any second notice of decision issued pursuant to section 252H.17, or second notice of proposed modification action issued pursuant to section 252H.20.

f. Copies of any financial statements and supporting documentation provided by the parents including proof of a substantial change in circumstances for a request filed pursuant to section 252H.18A.

g. Copies of any computation worksheet prepared by the unit to determine the amount of support calculated using the mandatory child support guidelines established under section 598.21B, and, if appropriate and the social security disability provisions of sections 598.22 and 598.22C apply, a determination of the amount of delinquent support due.

h. A certified copy of each order, issued by another state, considered in determining the controlling order.

6. The court shall set the matter for hearing and notify the parties of the time and place of the hearing.

7. For actions initiated under section 252H.15, a hearing shall not be held for at least

sixteen days following the date of issuance of the notice of decision unless the parents have jointly waived, in writing, the fifteen-day postreview period.

8. Pursuant to section 252H.3, the district court shall review the matter as an original hearing before the court.

9. Issues subject to review by the court in any hearing resulting from an action initiated under this chapter shall be limited to the issues identified in section 252H.3.

10. Notwithstanding any other law to the contrary, if more than one support order exists involving children with the same legally established parents, one hearing on all of the affected support orders shall be held in the district court in the county where the unit files the action. For the purposes of this subsection, the district court hearing the matter shall have jurisdiction over all other support orders entered by a court of this state and affected under this subsection.

11. The court shall establish the amount of child support pursuant to section 598.21B, or medical support pursuant to chapter 252E, or both.

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

93 Acts, ch 78, §31; 96 Acts, ch 1141, §1, 2; 97 Acts, ch 175, §100; 98 Acts, ch 1170, §37; 2002 Acts, ch 1018, §12; 2004 Acts, ch 1116, §21; 2005 Acts, ch 69, §22, 23; 2007 Acts, ch 218, §144 – 147, 156; 2010 Acts, ch 1142, §6

Referred to in §252H.5, 252H.7, 252H.9, 252H.11, 252H.14A

[SP] Conflicting administrative rule time limits are inapplicable until amended to conform with amendments to this section by 2010 Acts, ch 1142; 2010 Acts, ch 1142, §10

#### **252H.9 Filing and docketing of administrative adjustment or modification order — order effective as district court order.**

1. If timely request for a court hearing is not made pursuant to section 252H.8, the unit shall prepare and present an administrative order for adjustment or modification, as applicable, for review and approval, ex parte, to the district court where the order to be adjusted or modified is filed. Notwithstanding any other law to the contrary, if more than one support order exists involving children with the same legally established parents, for the purposes of this subsection, the district court reviewing and approving the matter shall have jurisdiction over all other support orders entered by a court of this state and affected under this subsection.

2. For orders to which subchapter II or III is applicable, the unit shall determine the appropriate amount of the child support obligation using the current child support guidelines established pursuant to section 598.21B and the criteria established pursuant to section 252B.7A and shall determine the provisions for medical support pursuant to chapter 252E.

3. The administrative order prepared by the unit shall specify all of the following:

- a. The amount of support to be paid and the manner of payment.
- b. The name of the custodian of any child for whom support is to be paid.
- c. The name of the parent ordered to pay support.
- d. The name and birth date of any child for whom support is to be paid.
- e. That the property of the responsible person is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and other methods of execution.

f. Provisions for medical support.

g. If applicable, the order determined to be the controlling order.

h. If applicable, the amount of delinquent support due based upon the receipt of social security disability payments as provided in sections 598.22 and 598.22C.

4. Supporting documents as described in section 252H.8, subsection 5, may be presented to the court with the administrative order, as applicable.

5. Unless defects appear on the face of the order or on the attachments, the district court shall approve the order. Upon filing, the approved order shall have the same force, effect, and attributes of an order of the district court.

6. Upon filing, the clerk of the district court shall enter the order in the judgment docket and judgment lien index.

7. A copy of the order shall be sent by regular mail within fourteen days after filing to

each parent's last known address, or if applicable, to the last known address of the parent's attorney.

8. The order is final, and action by the unit to enforce and collect upon the order, including arrearages and medical support, or both, may be taken from the date of the entry of the order by the district court.

93 Acts, ch 78, §32; 97 Acts, ch 175, §101; 98 Acts, ch 1170, §38; 2002 Acts, ch 1018, §13; 2005 Acts, ch 69, §24; 2007 Acts, ch 218, §148, 156

**252H.10 Effective date of adjustment — modification.**

1. Pursuant to section 598.21C, any administrative or court order resulting from an action initiated under this chapter may be made retroactive only from three months after the date that all parties were successfully served the notice required under section 252H.14A, 252H.15, or section 252H.19, as applicable.

2. The periodic due date established under a prior order for payment of child support shall not be changed in any order modified as a result of an action initiated under this chapter, unless the child support recovery unit or the court determines that good cause exists to change the periodic due date. If the unit or the court determines that good cause exists, the unit or the court shall include the rationale for the change in the modified order and shall address the issue of reconciliation of any payments due or made under a prior order which would result in payment of the child support obligation under both the prior and the modified orders.

93 Acts, ch 78, §33; 95 Acts, ch 115, §10; 2005 Acts, ch 69, §25; 2007 Acts, ch 218, §149, 156

**252H.11 Concurrent actions.**

This chapter does not prohibit or affect the ability or right of a parent or the parent's attorney to file a modification action at the parent's own initiative. If a modification action is filed by a parent concerning an order for which an action has been initiated but has not yet been completed by the unit under this chapter, the unit shall terminate any action initiated under this chapter, subject to the following:

1. The modification action filed by the parent must address the same issues as the action initiated under this chapter.

2. If the modification action filed by the parent is subsequently dismissed before being heard by the court, the unit shall continue the action previously initiated under subchapter II or III, or initiate a new action as follows:

a. If the unit previously initiated an action under subchapter II, and had not issued a notice of decision as required under section 252H.14A or 252H.16, the unit shall proceed as follows:

(1) If notice of intent to review was served ninety days or less prior to the date the modification action filed by the parent is dismissed, the unit shall complete the review and issue the notice of decision.

(2) If the modification action filed by the parent is dismissed more than ninety days after the original notice of intent to review was served, the unit shall serve or issue a new notice of intent to review and conduct the review.

(3) If the unit initiated a review under section 252H.14A, the unit may issue the notice of decision.

b. If the unit previously initiated an action under subchapter II and had issued the notice of decision as required under section 252H.14A or 252H.16, the unit shall proceed as follows:

(1) If the notice of decision was issued ninety days or less prior to the date the modification action filed by the parent is dismissed, the unit shall request, obtain, and verify any new or different information concerning the financial circumstances of the parents and issue a revised notice of decision to each parent, or if applicable, to the parent's attorney.

(2) If the modification action filed by the parent is dismissed more than ninety days after the date of issuance of the notice of decision, the unit shall serve or issue a new notice of intent to review pursuant to section 252H.15 and conduct a review pursuant to section 252H.16, or conduct a review and serve a new notice of decision under section 252H.14A.

c. If the unit previously initiated an action under subchapter III, the unit shall proceed as follows:

(1) If the modification action filed by the parent is dismissed more than ninety days after

the original notice of intent to modify was served, the unit shall serve a new notice of intent to modify pursuant to section 252H.19.

(2) If the modification action filed by the parent is dismissed ninety days or less after the original notice of intent to modify was served, the unit shall complete the original modification action initiated by the unit under this subchapter.

(3) Each parent shall be allowed at least twenty days from the date the administrative modification action is reinstated to request a court hearing as provided for in section 252H.8.

3. If an action initiated under this chapter is terminated as the result of a concurrent modification action filed by one of the parents or the parent’s attorney, the unit shall advise each parent, or if applicable, the parent’s attorney, in writing, that the action has been terminated and the provisions of subsection 2 of this section for continuing or initiating a new action under this chapter. The notice shall be issued by regular mail to the last known mailing address of each parent, or if applicable, each parent’s attorney.

4. If an action initiated under this chapter by the unit is terminated as the result of a concurrent action filed by one of the parents and is subsequently reinstated because the modification action filed by the parent is dismissed, the unit shall advise each parent, or if applicable, each parent’s attorney, in writing, that the unit is continuing the prior administrative adjustment or modification action. The notice shall be issued by regular mail to the last known mailing address of each parent, or if applicable, each parent’s attorney.

93 Acts, ch 78, §34; 97 Acts, ch 175, §102; 2007 Acts, ch 218, §150, 156

## SUBCHAPTER II

### REVIEW AND ADJUSTMENT

Referred to in §252B.20, 252H.5, 252H.9, 252H.11, 252H.18, 252H.24

#### **252H.12 Support orders subject to review and adjustment.**

A support order meeting all of the following conditions is eligible for review and adjustment under this subchapter:

1. The support order is subject to the jurisdiction of this state for the purposes of adjustment.

2. The support order provides for the ongoing support of at least one child under the age of eighteen or a child between the ages of eighteen and nineteen who has not yet graduated from high school but who is reasonably expected to graduate from high school before attaining the age of nineteen.

3. The ongoing support for at least one child described in subsection 2 continues, under the terms of the order, beyond October 13, 1993.

4. The unit is providing enforcement services for the ongoing support obligation pursuant to chapter 252B.

93 Acts, ch 78, §35

Referred to in §252H.14

#### **252H.13 Right to request review.**

A parent shall have the right to request the review of a support order for which the unit is currently providing enforcement services of an ongoing child support obligation pursuant to chapter 252B including by objecting to a cost-of-living alteration pursuant to section 252H.24, subsections 1 and 2.

93 Acts, ch 78, §36; 97 Acts, ch 175, §103

Referred to in §252H.5, 252H.14A, 252H.15, 252H.24

#### **252H.14 Reviews initiated by the child support recovery unit.**

1. The unit may periodically initiate a review of support orders meeting the conditions in section 252H.12 in accordance with the following:

a. The right to any ongoing child support obligation is currently assigned to the state due to the receipt of public assistance.

b. The support order does not already include provisions for medical support.



- c. The review is otherwise necessary to comply with the Act.
  - 2. The unit may periodically initiate a request to a child support agency of another state to conduct a review of a support order entered in that state when the right to any ongoing child or medical support obligation due under the order is currently assigned to the state of Iowa or if the order does not include provisions for medical support.
  - 3. The unit shall adopt rules establishing criteria to determine the appropriateness of initiating a review.
  - 4. The unit shall initiate reviews under this section in accordance with the Act.
- 93 Acts, ch 78, §37; 97 Acts, ch 175, §104; 2007 Acts, ch 218, §182, 183, 187; 2008 Acts, ch 1019, §18, 20

[SP] For transition provisions applicable to existing child support recovery unit rules, procedures, definitions, and requirements, and for nullification of 441 IAC rule 98.3, see 2007 Acts, ch 218, §186

#### **252H.14A Reviews initiated by the child support recovery unit — abbreviated method.**

- 1. Notwithstanding section 252H.15, the unit may use procedures under this section to review a support order if all the following apply:
  - a. One of the following applies:
    - (1) The right to ongoing child support is assigned to the state of Iowa due to the receipt of family investment program assistance, and a review of the support order is required under section 7302 of the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171.
    - (2) A parent requests a review, provides the unit with financial information as part of that request, and the order meets the criteria for review under this subchapter.
  - b. The unit has access to information concerning the financial circumstances of each parent and one of the following applies:
    - (1) The parent is a recipient of family investment program assistance, medical assistance, or food assistance from the department.
    - (2) The parent's income is from supplemental security income paid pursuant to 42 U.S.C. § 1381a.
    - (3) The parent is a recipient of disability benefits under the Act because of the parent's disability.
    - (4) The parent is an inmate of an institution under the control of the department of corrections.
    - (5) The unit has access to information described in section 252B.7A, subsection 1, paragraph "c".
- 2. If the conditions of subsection 1 are met, the unit may conduct a review and determine whether an adjustment is appropriate using information accessible by the unit without issuing a notice under section 252H.15 or requesting additional information from the parent.
- 3. Upon completion of the review, the unit shall issue a notice of decision to each parent, or if applicable, to each parent's attorney. The notice shall be served in accordance with the rules of civil procedure or as provided in section 252B.26, except that a parent requesting a review pursuant to section 252H.13 shall waive the right to personal service of the notice in writing and accept service by regular mail. If the service by regular mail does not occur within ninety days of the written waiver of personal service, personal service of the notice is required unless a new waiver of personal service is obtained.
- 4. All of the following shall be included in the notice of decision:
  - a. The legal basis and purpose of the action, including an explanation of the procedures for determining child support, the criteria for determining the appropriateness of an adjustment, and a statement that the unit used the child support guidelines established pursuant to section 598.21B and the provisions for medical support pursuant to chapter 252E.
  - b. Information sufficient to identify the affected parties and the support order or orders affected.
  - c. An explanation of the legal rights and responsibilities of the affected parties, including time frames in which the parties must act.
  - d. A statement indicating whether the unit finds that an adjustment is appropriate and the basis for the determination.
  - e. Procedures for contesting the action, including that if a parent requests a second review

both parents will be requested to submit financial or income information as necessary for application of the child support guidelines established pursuant to section 598.21B.

f. Other information as appropriate.

5. Section 252H.16, subsection 5, regarding a revised notice of decision shall apply to a notice of decision issued under this section.

6. Each parent shall have the right to challenge the notice of decision issued under this section by requesting a second review by the unit as provided in section 252H.17. If there is no new or different information to consider for the second review, the unit shall issue a second notice of decision based on prior information. Each parent shall have the right to challenge the second notice of decision by requesting a court hearing as provided in section 252H.8.

2007 Acts, ch 218, §151, 156; 2010 Acts, ch 1142, §7; 2011 Acts, ch 67, §3

Referred to in §252B.26, 252H.8, 252H.10, 252H.11, 252H.15, 252H.17

[SP] Existing administrative rules applicable to review and adjustment of support orders apply to review under this section as amended by 2010 Acts, except that a provision for a time limit, notice, or other procedure that conflicts with this section, as amended by 2010 Acts, is inapplicable; 2010 Acts, ch 1142, §10

**252H.15 Notice of intent to review and adjust.**

1. Unless an action is initiated under section 252H.14A, prior to conducting a review of a support order, the unit shall issue a notice of intent to review and adjust to each parent, or if applicable, to each parent’s attorney. However, notice to a child support agency or an agency entitled to receive child or medical support payments as the result of an assignment of support rights is not required.

2. Notice shall be served upon each parent in accordance with the rules of civil procedure, except that a parent requesting a review pursuant to section 252H.13 shall waive the right to personal service of the notice in writing and accept service by regular mail. If the service by regular mail does not occur within ninety days of the written waiver of personal service, personal service of the notice is required unless a new waiver of personal service is obtained.

3. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

a. The legal basis and purpose of the action.

b. Information sufficient to identify the affected parties and the support order or orders affected.

c. An explanation of the procedures for determining child support and a request for financial or income information as necessary for application of the child support guidelines established pursuant to section 598.21B.

d. An explanation of the legal rights and responsibilities of the affected parties, including the time frames in which the parties must act.

e. Criteria for determining appropriateness of an adjustment and a statement that the unit will use the child support guidelines established pursuant to section 598.21B and the provisions for medical support pursuant to chapter 252E to adjust the order.

f. Procedures for contesting the action.

g. An explanation of the right to request a court hearing, and the applicable time frames and procedures to follow in requesting a court hearing.

h. Other information as appropriate.

93 Acts, ch 78, §38; 2004 Acts, ch 1116, §22; 2005 Acts, ch 69, §26; 2007 Acts, ch 218, §152, 156

Referred to in §252H.5, 252H.8, 252H.10, 252H.11, 252H.14A, 252H.16

**252H.16 Conducting the review — notice of decision.**

1. For actions initiated under section 252H.15, the unit shall conduct the review and determine whether an adjustment is appropriate. As necessary, the unit shall make a determination of the controlling order or the amount of delinquent support due based upon the receipt of social security disability payments as provided in sections 598.22 and 598.22C.

2. Unless both parents have waived the prereview notice period as provided for in section 252H.7, the review shall not be conducted for at least fifteen days from the date both parents were successfully served with the notice required in section 252H.15.

3. Upon completion of the review, the unit shall issue a notice of decision by regular mail to the last known address of each parent, or if applicable, each parent's attorney.

4. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

a. Information sufficient to identify the affected parties and the support order or orders affected.

b. A statement indicating whether the unit finds that an adjustment is appropriate and the basis for the determination.

c. Other information, as appropriate.

5. A revised notice of decision shall be issued when the unit receives or becomes aware of new or different information affecting the results of the review after the notice of decision has been issued and before the entry of an administrative order adjusting the support order, when new or different information is not received in conjunction with a request for a second review, or subsequent to a request for a court hearing. If a revised notice of decision is issued, the time frames for requesting a second review or court hearing shall apply from the date of issuance of the revised notice.

93 Acts, ch 78, §39; 98 Acts, ch 1170, §39; 2002 Acts, ch 1018, §14; 2007 Acts, ch 218, §153, 156; 2010 Acts, ch 1142, §8

Referred to in §252H.5, 252H.6, 252H.7, 252H.8, 252H.11, 252H.14A, 252H.17

[SP] Conflicting administrative rule time limits are inapplicable until amended to conform with amendments to this section by 2010 Acts, ch 1142; 2010 Acts, ch 1142, §10

#### **252H.17 Challenging the notice of decision — second review — notice.**

1. Each parent shall have the right to challenge the notice of decision issued under section 252H.14A or 252H.16, by requesting a second review by the unit.

2. A challenge shall be submitted, in writing, to the local child support office that issued the notice of decision, within thirty days of service of the notice of decision under section 252H.14A or within ten days of the issuance of the notice of decision under section 252H.16.

3. A parent challenging the notice of decision shall submit any new or different information, not previously considered by the unit in conducting the review, with the challenge and request for second review.

4. A parent challenging the notice of decision shall submit any required fees with the challenge. Any request submitted without full payment of the required fee shall be denied.

5. If a timely challenge along with any necessary fee is received, the unit shall issue by regular mail to the last known address of each parent, or if applicable, to each parent's attorney, a notice that a second review will be conducted. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

a. A statement of purpose of the second review.

b. Information sufficient to identify the affected parties and the support order or orders affected.

c. A statement of the information that is eligible for consideration at the second review.

d. The procedures and time frames in conducting and completing a second review, including a statement that only one second review shall be conducted as the result of a challenge received from either or both parents.

e. An explanation of the right to request a court hearing, and the applicable time frames and procedures to follow in requesting a court hearing.

f. Other information, as appropriate.

6. The unit shall conduct a second review, utilizing any new or additional information provided or available since issuance of the notice of decision under section 252H.14A or under section 252H.16, to determine whether an adjustment is appropriate.

7. Upon completion of the review, the unit shall issue a second notice of decision by regular mail to the last known address of each parent, or if applicable, to each parent's attorney. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

a. Information sufficient to identify the affected parties and the support order or orders affected.

b. The unit's finding resulting from the second review indicating whether the unit finds

that an adjustment is appropriate, the basis for the determination, and the impact on the first review.

c. An explanation of the right to request a court hearing, and the applicable time frames and procedures to follow in requesting a court hearing.

d. Other information, as appropriate.

8. If the determination resulting from the first review is revised or reversed by the second review, the following shall be issued to each parent along with the second notice of decision and the amount of any proposed adjustment:

a. Any updated or revised financial statements provided by either parent.

b. A computation prepared by the local child support office issuing the notice, demonstrating how the amount of support due under the child support guidelines was calculated, and a comparison of the newly computed amount with the current support obligation amount.

93 Acts, ch 78, §40; 96 Acts, ch 1141, §3; 2007 Acts, ch 218, §154, 156

Referred to in §252H.5, 252H.7, 252H.8, 252H.14A

### SUBCHAPTER III

#### ADMINISTRATIVE MODIFICATION

Referred to in §252H.8, 252H.9, 252H.11

#### **252H.18 Orders subject to administrative modification.**

An order meeting all of the following conditions is eligible for administrative modification under this subchapter.

1. The order is subject to the jurisdiction of this state for the purposes of modification.

2. The unit is providing services pursuant to chapter 252B.

3. The child was conceived or born during a marriage or paternity has been legally established.

4. Review and adjustment services pursuant to subchapter II are not required or are not applicable.

93 Acts, ch 78, §41

#### **252H.18A Request for review outside applicable time frames.**

1. If a support order is not eligible for review and adjustment because the support order is outside of the minimum time frames specified by rule of the department, a parent may request a review and administrative modification by submitting all of the following to the unit:

a. A request for review of the support order which is outside of the applicable time frames.

b. Verified documentation of a substantial change in circumstances as specified by rule of the department.

2. Upon receipt of the request and all documentation required in subsection 1, the unit shall review the request and documentation and if appropriate shall issue a notice of intent to modify as provided in section 252H.19.

3. Notwithstanding section 598.21C, for purposes of this section, a substantial change in circumstances means there has been a change of fifty percent or more in the income of a parent, and the change is due to financial circumstances which have existed for a minimum period of three months and can reasonably be expected to exist for an additional three months.

97 Acts, ch 175, §105; 2005 Acts, ch 69, §27

Referred to in §252H.4, 252H.8

#### **252H.19 Notice of intent to modify.**

1. The unit shall issue a notice of intent to modify to each parent. Notice to a child support agency or an agency entitled to receive child or medical support payments as the result of an assignment of support rights is not required.

2. The notice shall be served upon each parent in accordance with the rules of civil procedure, except that a parent requesting modification shall, at the time of the request,

waive the right to personal service of the notice in writing and accept service by regular mail. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

- a. The legal basis and purpose of the action.
- b. Information sufficient to identify the affected parties and the support order or orders affected.
- c. An explanation of the procedures for determining child support and a request for financial or income information as necessary for application of the child support guidelines established pursuant to section 598.21B.
- d. An explanation of the legal rights and responsibilities of the affected parties, including the time frames in which the parties must act.
- e. Procedures for contesting the action through a conference or a court hearing.
- f. Other information, as appropriate.

93 Acts, ch 78, §42; 2004 Acts, ch 1116, §23; 2005 Acts, ch 69, §28

Referred to in §252H.8, 252H.10, 252H.11, 252H.18A

#### **252H.20 Conference — second notice and finding of financial responsibility.**

1. Each parent shall have the right to request a conference with the office of the unit that issued the notice of intent to modify. The request may be made in person, in writing, or by telephone, and shall be made within ten days of the date of successful service of the notice of intent to modify.

2. A parent requesting a conference shall submit any required fee no later than the date of the scheduled conference. A conference shall not be held unless the required fee is paid in full.

3. Upon a request and full payment of any required fee, the office of the unit that issued the notice of intent to modify shall schedule a conference with the parent and advise the parent of the date, time, place, and procedural aspects of the conference. The unit shall adopt rules pursuant to chapter 17A to specify the manner in which a conference is conducted and the purpose of the conference.

4. Following the conference, the office of the unit that conducted the review shall issue a second notice of proposed modification and finding of financial responsibility to the parent requesting the conference. The unit shall adopt rules pursuant to chapter 17A to ensure that all of the following are included in the notice:

- a. Information sufficient to identify the affected parties and the support order or orders affected.
- b. If the unit will continue or terminate the action.
- c. Procedures for contesting the action and the applicable time frames for actions by the parents.
- d. Other information, as appropriate.

93 Acts, ch 78, §43

Referred to in §252H.5, 252H.7, 252H.8

## SUBCHAPTER IV

### COST-OF-LIVING ALTERATION

Referred to in §252B.20, 252E.1A

#### **252H.21 Purpose — intent — effect on requirements for guidelines.**

1. This subchapter is intended to provide a procedure to accommodate a request of both parents to expeditiously change a support order due to changes in the cost of living.

2. All of the following shall apply to a cost-of-living alteration under this subchapter:

a. To the extent permitted under 42 U.S.C. § 666(a)(10)(A)(i)(II), the cost-of-living alteration shall be an exception to any requirement under law for the application of the child support guidelines established pursuant to section 598.21B, including but not limited to any requirement in this chapter or chapter 234, 252A, 252B, 252C, 252F, 598, or 600B.

b. The cost-of-living alteration shall not prevent any subsequent modification or

adjustment to the support order as otherwise provided in law based on application of the child support guidelines.

c. The calculation of a cost-of-living alteration to a child support order shall be compounded as follows:

(1) Increase or decrease the child support order by the percentage change of the appropriate consumer price index for the month and year after the month and year the child support order was last issued, modified, adjusted, or altered.

(2) Increase or decrease the amount of the child support order calculated in subparagraph (1) for each subsequent year by applying the appropriate consumer price index for each subsequent year to the result of the calculation for the previous year. The final year in the calculation shall be the year immediately preceding the year the unit received the completed request for the cost-of-living alteration.

d. The amount of the cost-of-living alteration in the notice in section 252H.24, subsection 1, shall be the result of the calculation in paragraph “c”.

97 Acts, ch 175, §106; 2005 Acts, ch 69, §29

**252H.22 Support orders subject to cost-of-living alteration.**

A support order meeting all of the following conditions is eligible for a cost-of-living alteration under this subchapter.

1. The support order is subject to the jurisdiction of this state for the purposes of a cost-of-living alteration.

2. The support order provides for the ongoing support of at least one child under the age of eighteen or a child between the ages of eighteen and nineteen who has not yet graduated from high school but who is reasonably expected to graduate from high school before attaining the age of nineteen.

3. The unit is providing enforcement services for the ongoing support obligation pursuant to chapter 252B.

4. A parent requests a cost-of-living alteration as provided in section 252H.23.

5. The support order addresses medical support for the child.

6. The support order is not subject to the social security disability provisions pursuant to sections 598.22 and 598.22C.

97 Acts, ch 175, §107; 2002 Acts, ch 1018, §15

**252H.23 Right to request cost-of-living alteration.**

A parent may request a cost-of-living alteration by submitting all of the following to the unit:

1. A written request for a cost-of-living alteration to the support order signed by the parent making the request.

2. A statement signed by the nonrequesting parent agreeing to the cost-of-living alteration to the support order.

3. A statement signed by each parent waiving that parent’s right to personal service and accepting service by regular mail.

4. Other documentation specified by rule of the department.

97 Acts, ch 175, §108

Referred to in §252H.22

**252H.24 Role of the child support recovery unit — filing and docketing of cost-of-living alteration order — order effective as district court order.**

1. Upon receipt of a request and required documentation for a cost-of-living alteration, the unit shall issue a notice of the amount of cost-of-living alteration by regular mail to the last known address of each parent, or, if applicable, each parent’s attorney. The notice shall include all of the following:

a. A statement that either parent may contest the cost-of-living alteration within thirty days of the date of the notice by making a request for a review of a support order as provided in section 252H.13, and if either parent does not make a request for a review within thirty days, the unit shall prepare an administrative order as provided in subsection 4.

b. A statement that the parent may waive the thirty-day notice waiting period provided for in this section.

2. Upon timely receipt of a request and required documentation for a review of a support order as provided in subsection 1 from either parent, the unit shall terminate the cost-of-living alteration process and apply the provisions of subchapters I and II of this chapter relating to review and adjustment.

3. Upon receipt of signed requests from both parents subject to the support order, waiving the notice waiting period, the unit may prepare an administrative order pursuant to subsection 4 altering the support obligation.

4. If timely request for a review pursuant to section 252H.13 is not made, and if the thirty-day notice waiting period has expired, or if both parents have waived the notice waiting period, the unit shall prepare and present an administrative order for a cost-of-living alteration, ex parte, to the district court where the order to be altered is filed.

5. Unless defects appear on the face of the administrative order or on the attachments, the district court shall approve the order. Upon filing, the approved order shall have the same force, effect, and attributes of an order of the district court.

6. Upon filing, the clerk of the district court shall enter the order in the judgment docket and judgment lien index.

7. If the parents jointly waive the thirty-day notice waiting period, the signed statements of both parents waiving the notice period shall be filed in the court record with the administrative order altering the support obligation.

8. The unit shall send a copy of the order by regular mail to each parent's last known address, or, if applicable, to the last known address of the parent's attorney.

9. An administrative order approved by the district court is final, and action by the unit to enforce and collect upon the order may be taken from the date of the entry of the order by the district court.

97 Acts, ch 175, §109

Referred to in §252H.13, 252H.21, 598.21C