

252B.20A Suspension of support — request by one party.

1. If the unit is providing child support enforcement services pursuant to [this chapter](#), the obligor who is ordered to pay support for the dependent child pursuant to [chapter 252A](#), [252C](#), or [252F](#), may request the assistance of the unit in suspending the obligation for support if all of the following conditions exist:

a. The child is currently residing with the obligor and has been for more than sixty consecutive days. If the basis for suspension under this paragraph applies to at least one but not all of the children for whom support is ordered, the condition of this paragraph is met only if the support order includes a step change.

b. There is no order in effect regarding legal custody, physical care, visitation, or other parenting time for the child.

c. It is reasonably expected that the basis for suspension under [this section](#) will continue for not less than six months.

d. The child for whom support is ordered is not receiving public assistance pursuant to [chapter 239B](#), [249A](#), or a comparable law of another state or foreign country, unless the obligor is considered to be a member of the same household as the child for the purposes of public assistance eligibility.

e. The obligor has signed a notarized affidavit, provided by the unit, attesting to the existence of the conditions under paragraphs “a” through “d”, has requested suspension of the support order or obligation, and has submitted the affidavit to the unit.

f. No prior request for suspension has been served under [this section](#), and no prior request for suspension has been filed with the unit pursuant to [section 252B.20](#), during the two-year period preceding the request.

g. Any other criteria established by rule of the department.

2. Upon receipt of the application for suspension and properly executed and notarized affidavit, the unit shall review the application and affidavit to determine that the criteria have been met. The unit shall then do one of the following:

a. If the unit determines the criteria have not been met, deny the request and notify the obligor in writing that the application is being denied, providing reasons for the denial and notifying the obligor of the right to proceed through private counsel. Denial of the application is not subject to contested case proceedings or further review pursuant to [chapter 17A](#).

b. If the unit determines the criteria have been met, serve a copy of the notice and supporting documents on the obligee by any means provided in [section 252B.26](#). The notice to the obligee shall include all of the following:

(1) Information sufficient to identify the parties and the support order affected.

(2) An explanation of the procedure for suspension and reinstatement of support under [this section](#).

(3) An explanation of the rights and responsibilities of the obligee, including the applicable procedural time frames.

(4) A statement that within twenty days of service, the obligee must submit a signed and notarized response to the unit objecting to at least one of the assertions in [subsection 1](#), paragraphs “a” through “d”. The statement shall inform the obligee that if, within twenty days of service, the obligee fails to submit a response as specified in this subparagraph, notwithstanding [rules of civil procedure 1.972\(2\)](#) and [1.972\(3\)](#), the unit will prepare and submit an order as provided in [subsection 3](#), paragraph “b”.

3. No sooner than thirty days after service on the obligee under [subsection 2](#), paragraph “b”, the unit shall do one of the following:

a. If the obligee submits a signed and notarized objection to any assertion in [subsection 1](#), paragraphs “a” through “d”, deny the request and notify the parties in writing that the application is denied, providing reasons for the denial, and notifying the parties of the right to proceed through private counsel. Denial of the application is not subject to contested case proceedings or further review pursuant to [chapter 17A](#).

b. If the obligee does not timely submit a signed and notarized objection to the unit, prepare an order which shall be submitted, along with supporting documents, to a judge of a district court for approval, suspending the accruing support obligation. If the basis for suspension applies to at least one but not all of the children for whom support is ordered

and the support order includes a step change, the unit shall prepare an order suspending the accruing support obligation for each child to whom the basis for suspension applies.

4. An order approved by the court for suspension of an accruing support obligation is effective upon the date of filing of the suspension order.

5. An order suspending an accruing support obligation entered by the court pursuant to [this section](#) shall be considered a temporary order for the period of six months from the date of filing of the suspension order. However, the six-month period shall not include any time during which an application for reinstatement is pending before the court.

6. During the six-month period, the unit may request that the court reinstate the accruing support order or obligation if any of the following conditions exist:

a. Upon application to the unit by either party or other person who has physical custody of the child.

b. Upon the receipt of public assistance benefits pursuant to [chapter 239B, 249A](#), or a comparable law of another state or foreign country, by the person entitled to receive support and the child on whose behalf support is paid, provided that the person owing the support is not considered to be a member of the same household as the child for the purposes of public assistance eligibility.

7. If a condition under [subsection 6](#) exists, the unit may request that the court reinstate an accruing support obligation as follows:

a. If the basis for the suspension no longer applies to any of the children for whom an accruing support obligation was suspended, the unit shall request that the court reinstate the accruing support obligations for all of the children.

b. If the basis for the suspension continues to apply to at least one but not all of the children for whom an accruing support obligation was suspended and if the support order includes a step change, the unit shall request that the court reinstate the accruing support obligation for each child for whom the basis for the suspension no longer applies.

8. Upon filing of an application for reinstatement, service of the application shall be made either in person or by first class mail upon the parties. Within ten days following the date of service, a party may file a written objection with the clerk of the district court to the entry of an order for reinstatement.

a. If no objection is filed, the court may enter an order reinstating the accruing support obligation without additional notice.

b. If an objection is filed, the clerk of court shall set the matter for hearing and send notice of the hearing to the parties and the unit.

9. a. The reinstatement is effective as follows:

(1) For reinstatements initiated under [subsection 6](#), paragraph “a”, the date the notices were served on the parties pursuant to [subsection 8](#).

(2) For reinstatements initiated under [subsection 6](#), paragraph “b”, the date the child began receiving public assistance benefits during the suspension of the obligation.

b. Support which became due during the period of suspension but prior to the reinstatement is waived and not due and owing unless the suspension was made under false pretenses.

10. If the order suspending a support obligation has been on file with the court for a period exceeding six months as computed pursuant to [subsection 5](#), the order becomes final by operation of law and terminates the support obligation, and thereafter, a party seeking to establish a support obligation against either party shall bring a new action for support as provided by law.

11. Legal representation of the unit shall be provided pursuant to [section 252B.7, subsection 4](#).

12. [This section](#) shall not limit the rights of a party or the unit to proceed by other means to suspend, terminate, modify, reinstate, or establish support.

13. [This section](#) does not provide for the suspension or retroactive modification of support obligations which accrued prior to the entry of an order suspending enforcement and collection of support pursuant to [this section](#).

14. Nothing in [this section](#) shall prohibit or limit the unit or a party entitled to receive

support from enforcing and collecting any unpaid or unsatisfied support that accrued prior to the suspension of the accruing obligation.

15. For the purposes of [chapter 252H](#) regarding the criteria for a review under subchapter II of that chapter or for a cost-of-living alteration under subchapter IV of that chapter, if a support obligation is terminated or reinstated under [this section](#), such termination or reinstatement shall not be considered a modification of the support order.

16. As used in [this section](#), unless the context otherwise requires, “*step change*” means a change designated in a support order specifying the amount of the child support obligation as the number of children entitled to support under the order changes.

17. As specified in [this section](#), if the child for whom support is ordered is not receiving public assistance pursuant to [chapter 239B, 249A](#), or a comparable law of another state or foreign country, upon request by the obligor, the unit may facilitate the suspension of the child support order or obligation if the child is residing with a caretaker, who is a natural person, and who has not requested the unit to provide services under [this chapter](#). The obligor and the caretaker shall sign a notarized affidavit attesting to the conditions under [this section](#), consent to the suspension of the support order or obligation, and submit the affidavit to the unit. Upon the receipt of public assistance benefits pursuant to [chapter 239B, 249A](#), or a comparable law of another state or foreign country, by the child on whose behalf support is ordered, or upon application to the unit by either party or the caretaker, the unit may, within the time periods specified in [this section](#), request the reinstatement of the accruing support order or obligation pursuant to [this section](#).

18. The department may adopt all necessary and proper rules to administer and interpret [this section](#).

[2015 Acts, ch 110, §120, 123](#)

Referred to in [§252B.20](#)

Section takes effect January 1, 2016; 2015 Acts, ch 110, §123

NEW section