

Senate File 319 - Enrolled

SENATE FILE 319

AN ACT

RELATING TO CHILD SUPPORT ENFORCEMENT INCLUDING WITHHOLDING OF AN EMPLOYEE'S COMPENSATION BY AN EMPLOYER FOR SUPPORT OF A CHILD UNDER A SUPPORT ORDER, PROTECTION OF CHILD SUPPORT INFORMATION, ANNUAL COLLECTIONS FEES, AND THE POTENTIAL CHARGING OF INTEREST ON OVERDUE CHILD SUPPORT PAYMENTS, AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

WITHHOLDING OF EMPLOYEE COMPENSATION

Section 1. Section 252D.18A, subsection 4, Code 2009, is amended to read as follows:

4. The payor shall identify and report payments by the obligor's name, account number, amount, and date withheld pursuant to section 252D.17. ~~Until October 1, 1999, if payments for multiple obligees are combined, the portion of the payment attributable to each obligee shall be specifically identified. Beginning October 1, 1999, if~~ 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.

Sec. 2. Section 252E.5, subsection 3, Code 2009, is amended to read as follows:

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

Sec. 3. 2007 Iowa Acts, chapter 218, sections 162 and 167, are repealed.

DIVISION II

CHILD SUPPORT ENFORCEMENT INFORMATION

Sec. 4. Section 252B.5, subsection 9, paragraph b, unnumbered paragraph 1, Code 2009, is amended to read as follows:

~~Notwithstanding section 252B.9, the~~ The unit may forward information to the department of administrative services as necessary to implement this subsection, including but not limited to both of the following:

Sec. 5. Section 252B.9, subsection 2, unnumbered paragraph 1, Code 2009, is amended to read as follows:

~~Notwithstanding other statutory provisions to the contrary, including but not limited to chapters 22 and 217, as the chapters relate to confidentiality of records maintained by the department, the payment records of the collection services center maintained under section 252B.13A are public records may be released, except when prohibited by federal law or regulation, only as follows:~~

Sec. 6. Section 252B.9, subsection 2, paragraph a, Code 2009, is amended to read as follows:

~~a. Payment records of the collection services center which are maintained pursuant to chapter 598 are public records and may be released upon request for the administration of a plan or program approved under Title IV, XIX, or XXI of the federal Social Security Act, as amended, and as otherwise permitted under Title IV=D of the federal Social Security Act, as amended. Payment records of the clerk of the district court, to which the department has access to meet the requirements of a state disbursement unit, are also public records and may be released upon request. A payment record shall not include address or location information.~~

Sec. 7. Section 252B.9, subsection 2, paragraph b, unnumbered paragraph 1, Code 2009, is amended to read as follows:

~~Except as otherwise provided in subsection 1, the~~ The department ~~shall not~~ may release details related to payment records or provide alternative formats for release of the

information, with the following additional exceptions for the administration of a plan or program under Title IV-D of the federal Social Security Act, as amended, including as follows:

Sec. 8. Section 252B.9, subsection 2, paragraph b, subparagraph (1), Code 2009, is amended to read as follows:

(1) The unit or collection services center may provide ~~additional~~ detail or present the information in an alternative format to an individual or to the individual's legal representative if the individual owes or is owed a support obligation, to an agency assigned the obligation as the result of receipt by a party of public assistance, to an agency charged with enforcing child support pursuant to Title IV-D of the federal Social Security Act, as amended, or to the court.

Sec. 9. Section 252B.9, subsection 3, paragraph e, Code 2009, is amended to read as follows:

e. Information may be released if directly connected with any of the following:

(1) The administration of ~~the a plan or program approved under Title I, IV-A, IV-B, IV-D, IV-E, X, XIV, XVI, IV, XIX, or XX XXI, or the supplemental security income program established under Title XVI,~~ of the federal Social Security Act, as amended.

(2) Any investigations, prosecutions, or criminal or civil proceeding conducted in connection with the administration of any such plan or program.

~~(3) The administration of any other federal or federally assisted program which provides assistance in cash or in kind or provides services, directly to individuals on the basis of need.~~

~~(4) (3)~~ Reporting to an appropriate agency or official of any such plan or program, information on known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child who is the subject of a child support enforcement action under circumstances which indicate that the child's health or welfare is threatened.

Sec. 10. Section 252B.9, subsection 3, paragraph g, Code 2009, is amended to read as follows:

g. The child support recovery unit ~~shall may~~ release information ~~relating to an absent parent to another unit of the department pursuant to a written request for the information approved by the director or the director's designee for the administration of a plan or program approved under Title IV, XIX, or XXI of the federal Social Security Act, as amended, specified under subsection 2 or this subsection, to the extent the release of information does not interfere with the unit meeting its own obligations under Title IV-D of the federal Social Security Act, as amended, and subject to requirements prescribed by the federal office of child support enforcement of the United States department of health and human services.~~

Sec. 11. Section 252B.9A, subsection 1, Code 2009, is amended to read as follows:

1. A person, except a court or government agency, who is an authorized person to receive specified confidential information under 42 U.S.C. } 653, may submit a written request to the unit for disclosure of specified confidential information regarding a nonrequesting party. The written request shall comply with federal law and regulations, including any evidence and any payment to the federal office of child support enforcement of the United States department of health and human services required by federal law or regulation, and shall include a sworn statement attesting to the reason why the requester is an authorized person under 42 U.S.C. } 653, including that the requester would use the confidential information only for purposes permitted in that section.

Sec. 12. Section 252G.5, subsections 2 and 3, Code 2009, are amended to read as follows:

2. State agencies as specified under 42 U.S.C. } 653A which utilize income information for the determination of eligibility or calculation of payments for benefit or entitlement payments unless prohibited under federal law.

~~3. State agencies which utilize income information for the recoupment of debts to the state operating employment security and workers' compensation programs for the purposes of administering such programs unless prohibited under federal law.~~

Sec. 13. Section 598.22, subsection 3, Code 2009, is amended to read as follows:

3. An order or judgment entered by the court for temporary

or permanent support or for income withholding shall be filed with the clerk. The orders have the same force and effect as judgments when entered in the judgment docket and lien index and are records open to the public. Unless otherwise provided by federal law, if it is possible to identify the support order to which a payment is to be applied, and if sufficient information identifying the obligee is provided, the clerk or the collection services center, as appropriate, shall disburse the payments received pursuant to the orders or judgments within two working days of the receipt of the payments. All moneys received or disbursed under this section shall be entered in records kept by the clerk, or the collection services center, as appropriate, ~~which and the records kept by the clerk~~ shall be available to the public. The clerk or the collection services center shall not enter any moneys paid in the record book if not paid directly to the clerk or the center, as appropriate, except as provided for trusts and federal social security disability payments in this section, and for tax refunds or rebates in section 602.8102, subsection 47.

Sec. 14. Section 598.26, subsection 1, Code 2009, is amended to read as follows:

1. Until a decree of dissolution has been entered, the record and evidence shall be closed to all but the court, its officers, and the child support recovery unit of the department of human services pursuant to section 252B.9. However, the payment records of a temporary support order, ~~whether maintained by the clerk of the district court or the department of human services,~~ are public records and may be released upon request. Payment records shall not include address or location information. No other person shall permit a copy of any of the testimony, or pleading, or the substance thereof ~~of any testimony or pleading,~~ to be made available to any person other than a party to the action or a party's attorney. Nothing in this subsection shall be construed to prohibit publication of the original notice as provided by the rules of civil procedure.

Sec. 15. EFFECTIVE DATE. This division of this Act takes effect March 23, 2009.

DIVISION III

CHILD SUPPORT RECOVERY UNIT COLLECTIONS FEES

Sec. 16. Section 252B.5, subsection 13, paragraph a, Code 2009, is amended to read as follows:

a. Beginning October 1, 2007, implement the provision of the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171 } 7310, requiring an annual collections fee of twenty-five dollars in child support cases in which the family has never received assistance under Title IV-A of the federal Social Security Act for whom the unit has ~~collected~~ disbursed at least five hundred dollars. ~~After~~ When the first five hundred dollars in support is ~~collected~~ disbursed in each federal fiscal year for a family, the fee shall be collected from the ~~obligor obligee~~ by retaining twenty-five dollars from ~~subsequent collections disbursements to the obligee.~~ If five hundred dollars but less than five hundred twenty-five dollars is ~~collected~~ disbursed in any federal fiscal year, any unpaid portion of the annual fee shall not accumulate and is not due. ~~Any amount retained to pay the twenty-five dollar fee shall not reduce the amount of support due under the support order.~~ The unit shall send information regarding the requirements of this subsection by regular mail to the last known address of an affected ~~obligor or~~ obligee, or may include the information for an obligee in an application for services signed by the obligee. In addition, the unit shall take steps necessary regarding the fee to qualify for federal funds in conformity with the provisions of Title IV-D of the federal Social Security Act, including receiving and accounting for fee payments, as appropriate, through the collection services center created in section 252B.13A.

Sec. 17. Section 252B.5, subsection 13, paragraph c, Code 2009, is amended by striking the paragraph and inserting in lieu thereof the following:

c. Until such time as a methodology to secure payment of the collections fee from the obligor is provided by law, an obligee may act pursuant to this paragraph to recover the collections fee from the obligor. If the unit retains all or a portion of the collections fee imposed pursuant to paragraph "a" in a federal fiscal year, there is an automatic nonsupport judgment, in an amount equal to the amount retained, against the obligor payable to the obligee. This paragraph shall serve as constructive notice that the fee amount, once

retained, is an automatic nonsupport judgment against the obligor. The obligee may use any legal means, including the lien created by the nonsupport judgment, to collect the nonsupport judgment.

Sec. 18. CHILD SUPPORT COLLECTIONS FEE == METHODOLOGY. The department of human services shall seek a federally approved, cost-effective methodology to secure payment of the collections fee imposed pursuant to section 252B.5, subsection 13, paragraph "a", from the obligor. The department shall report options for such a methodology to the general assembly by December 15, 2009.

DIVISION IV
CHILD SUPPORT COLLECTIONS INTEREST

Sec. 19. INTEREST ON CHILD SUPPORT COLLECTIONS. The department of human services shall perform a cost-benefit analysis of calculating interest on overdue child support payments enforced by the child support recovery unit. The department shall report its findings to the general assembly by December 15, 2009.

JOHN P. KIBBIE
President of the Senate

PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 319, Eighty-third General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2009

CHESTER J. CULVER
Governor