

FILED FEB 24 1977

Reprinted 2/77

SENATE FILE 149

By COMMITTEE ON HUMAN RESOURCES *Approval 2/23 (459)*

Passed Senate, Date 2-2-77 (p. 508) Passed House, Date _____
Vote: Ayes 29 Nays 19 Vote: Ayes _____ Nays _____
Approved Jan 5, 1977

A BILL FOR

1 An Act relating to mandatory wage assignment in child
2 support orders.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 149

S-3105

1 Amend Senate File 149 as follows:
2 1. Page 1, by inserting after line 20 the
3 following new section:
4 "Sec. ____ Section five hundred ninety-
5 eight point twenty-three (598.23), unnumbered para-
6 graph three (3), Code 1977, is repealed."

S-3105 FILED - *Lat 3/2 (508)* BY CALVIN O. HULTMAN
FEBRUARY 28, 1977

S-3111

1 Amend Senate File 149, page 1, line 11, by
2 inserting after the word "employer" the words "only
3 for those amounts that represent child support and
4 only".

S-3111 FILED - *Adopted 3/2 (506)* BY JOHN S. MURRAY
MARCH 1, 1977

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1 Section 1. Section five hundred ninety-eight point twenty-
2 three (598.23), unnumbered paragraph two (2), Code 1977, is
3 amended to read as follows:

4 The court may, as an alternative to punishment for contempt,
5 make an order directing the defaulting party to assign a
6 sufficient amount in salary or wages due, or to become due
7 in the future, from an employer or successor employers, to
8 the clerk of the court where the order or judgment was granted
9 for the purpose of paying the sums in default as well as those
10 to be made in the future. The assignment order shall ~~not~~
11 be binding upon the employer, ~~but the court shall send upon~~
12 receipt by the employer of a copy of the order, signed by
13 ~~the employee, to the employer and request his co-operation~~
14 ~~in deducting support payments.~~ For each payment deducted
15 in compliance with such request, the employer shall receive
16 one dollar to cover the expense created by the deduction,
17 which amount shall be deducted from the money due the employee.
18 Compliance by an employer with the court's request shall
19 operate as a discharge of his liability to the employee as
20 to the affected portion of the employee's wages.

21 Sec. 2. Section five hundred thirty-seven point five thou-
22 sand one hundred five (537.5105), subsection one (1), paragraph
23 a, Code 1977, is amended to read as follows:

24 a. "Disposable earnings" means that part of the earnings
25 of an individual remaining after the deduction from those
26 earnings of amounts required by law to be withheld or assigned.

27 EXPLANATION

28 This bill revises section 598.23 of the Code so that wage
29 assignment orders signed by a defaulting party in a child
30 support enforcement action, as an alternative to being held
31 in contempt for failure to pay support as previously ordered,
32 will be binding upon employers of such persons. At present,
33 the employers of such persons may lawfully choose to disregard
34 such orders.

35 The bill also amends the term "disposable earnings" which

1 now appears in the limitation on garnishment section of the
2 Iowa uniform consumer credit code, so that the definition
3 will reflect the fact that certain assignment orders are man-
4 datory.

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SENATE FILE 149
FISCAL NOTE

Date Prepared: February 8, 1977
Requested by: Senator Eugene Hill
Prepared in regard to Senate File 149. Proposed Bill,
An Act relating to mandatory wage assignment in child
support orders.

Following is the fiscal effect in dollars of the
legislative proposal as required by Joint Rule 16.

As proposed, Section 598.23 would provide that, as an alternative to
commitment to the county jail for contempt for failure to pay support, the
Court may make an Order directing the defaulting party to assign a sufficient
amount in salary or wages to the Clerk of Court for the purpose of paying
the sums in default, as well as those to be made in the future. This would
insure the regular and periodic payment of the support obligation, rather
than the incarceration of the defaulting party at an additional cost to the
state.

The projections, making the assignment order mandatory on employers, would
result in an overall increase in child support collections of approximately
fifteen (15) percent. At the current annual rate of collections in ADC cases,
this would result in an annual increase in the amount of \$900,000.

Source: Department of Social Services

FILED
MARCH 1, 1977

Gerry Rankin
Legislative Fiscal Director

pb/jw/5

S-3114

1 Amend Senate File 149 as follows:
2 1. Page 1, by striking lines 16 and 17 and
3 inserting in lieu thereof the following: "reimbursement
4 sufficient to cover the actual cost of the expense
5 created by the deduction, which reimbursement shall
6 be paid out of funds appropriated to the Department
7 of Social Services. The employer shall notify the
8 Department annually on forms provided by the
9 Department of costs incurred for this purpose and
10 the Department shall reimburse the employer upon
11 receipt of the statement of expenses from the employer."

S-3114 FILED - *Withdraw 3/2 (506)* BY CLOYD ROBINSON
MARCH 1, 1977

S-3117

1 Amend Senate File 149, page 1, by striking line
2 16 and inserting in lieu thereof the following:
3 "reimbursement sufficient to cover the actual cost
4 of the expense created by the deduction,"

S-3117 FILED - *Last 3/2 (p. 507)* BY BOB RUSH
MARCH 1, 1977

Senate File 149

Human Resources: Loneragan, Chair; Krewson and Dyrland.

WRIGHT, CHAIR
Anderson
Hansen

SENATE FILE 149

BY COMMITTEE ON HUMAN
RESOURCES

(AS AMENDED AND PASSED BY THE SENATE MARCH 2, 1977)

Passed Senate, Date 3-2-77 (p. 508) Passed House, Date 5-2-78 (p. 2203)

Vote: Ayes 29 Nays 19 Vote: Ayes 27 Nays 0

Approved 6-5-78

A BILL FOR

1 An Act relating to mandatory wage assignment in child
2 support orders.

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

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H-3266

1 Amend Senate File 149, as amended, passed and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 2, by striking the words and
4 figure "unnumbered paragraph two (2),".

5 2. Page 1, by inserting after line 3 the follow-
6 ing:

7 "598.23 CONTEMPT PROCEEDINGS--ALTERNATIVE TO JAIL
8 SENTENCE. If any party against whom any temporary
9 order or final decree has been entered shall willfully
10 disobey the same, or secrete his or her property,
11 he that party may be cited and punished by the court
12 for contempt and be committed to the county jail for
13 a period of time not to exceed thirty days for each
14 offense."

15 3. Page 1, by inserting after line 21 the follow-
16 ing:

17 "Any employer who dismisses an employee due to
18 the entry of an assignment order commits a public
19 offense and upon conviction shall be fined not more
20 than one hundred dollars. If at any time after an
21 assignment order has been received by an employer,
22 the employee covered by the order is not entitled
23 to salary or wages due to a layoff, strike, or other
24 interruption of work affecting the employee but beyond
25 that employee's individual control, the employer shall
26 not withhold money from salary or wages subsequently
27 becoming due the employee for the purpose of
28 retroactively paying amounts which would have been
29 withheld from the salary or wages ordinarily due that
30 employee for the period of the layoff, strike, or
31 other work interruption."

1 Section 1. Section five hundred ninety-eight point twenty-
2 three (598.23), unnumbered paragraph two (2), Code 1977, is
3 amended to read as follows:

4 The court may, as an alternative to punishment for contempt,
5 make an order directing the defaulting party to assign a
6 sufficient amount in salary or wages due, or to become due
7 in the future, from an employer or successor employers, to
8 the clerk of the court where the order or judgment was granted
9 for the purpose of paying the sums in default as well as those
10 to be made in the future. The assignment order shall ~~not~~
11 be binding upon the employer only for those amounts that
12 represent child support and only ~~7-but-the-court-shall-send~~
13 upon receipt by the employer of a copy of the order, signed
14 by the employee ~~7-to-the-employer-and-request-his-co-operation~~
15 ~~in-deducting-support-payments~~. For each payment deducted
16 in compliance with such request, the employer shall receive
17 one dollar to cover the expense created by the deduction,
18 which amount shall be deducted from the money due the employee.
19 Compliance by an employer with the court's request shall
20 operate as a discharge of his liability to the employee as
21 to the affected portion of the employee's wages.

22 Sec. 2. Section five hundred thirty-seven point five thou-
23 sand one hundred five (537.5105), subsection one (1), paragraph
24 a, Code 1977, is amended to read as follows:

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26 of an individual remaining after the deduction from those
27 earnings of amounts required by law to be withheld or assigned.

28 EXPLANATION

29 This bill revises section 598.23 of the Code so that wage
30 assignment orders signed by a defaulting party in a child
31 support enforcement action, as an alternative to being held
32 in contempt for failure to pay support as previously ordered,
33 will be binding upon employers of such persons. At present,
34 the employers of such persons may lawfully choose to disregard
35 such orders.

1 The bill also amends the term "disposable earnings" which
2 now appears in the limitation on garnishment section of the
3 Iowa uniform consumer credit code, so that the definition
4 will reflect the fact that certain assignment orders are man-
5 datory.

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SF 149
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SENATE FILE 149

H-6426

1 Amend Senate File 149, as passed by the Senate
2 and reprinted, as follows:

3 1. Page 1, by inserting after line 27, the
4 following:

5 "Sec. _____. Section six hundred forty two point
6 twenty one (642.21), subsection one (1), Code 1977,
7 is amended to read as follows:

8 1. The disposable earnings of an individual
9 shall be exempt from garnishment to the extent pro-
10 vided by the federal Consumer Credit Protection Act,
11 Title III. The term "Consumer Protection Act" means
12 the Act of Congress approved May 29, 1968, 82 Stat.
13 163, officially cited as the "Consumer Credit
14 Protection Act, Title III." The maximum amount of
15 an employee's earnings which may be garnished during
16 any one calendar year is two-hundred-fifty five
17 hundred dollars for each judgment creditor, except as
18 provided in section 627.12."

H-6426 FILED *withdrawing* BY TAUKE of Dubuque
MAY 1, 1978 *5/2 (p. 2402)*

SENATE FILE 149

H-6430

1 Amend Senate File 149, as amended, passed and
2 reprinted by the Senate as follows:

3 1. Page 1, line 15, by inserting after the
4 period the following: "Such assignment order shall
5 be in effect and binding on the employer for a peri-
6 od not exceeding twelve months unless the court has
7 ordered a period of shorter duration."

H-6430 FILED *Hand 5/3* BY SMALLEY of Polk
MAY 1, 1978 *(p. 2402)*

1 Amend Senate File 149, as amended and reprinted
2 by the Senate, as follows:

3 1. Page 1, by inserting before line 1 the fol-
4 lowing:

5 "Section 1. NEW SECTION. PURPOSES. The purpose
6 of sections one (1) through forty-three (43) of this
7 Act is to improve and extend by reciprocal legislation
8 the enforcement of duties of support.

9 Sec. 2. NEW SECTION. DEFINITIONS.

10 1. "Court" means the district court of this state
11 and when the context requires means the court of any
12 other state as defined in a substantially similar
13 reciprocal law.

14 2. "Duty of support" means a duty of support
15 whether imposed or imposable by law or by order,
16 decree, or judgment of any court, whether interlocutory
17 or final or whether incidental to an action for
18 divorce, dissolution, separation, separate maintenance
19 or otherwise and includes the duty to pay arrearages
20 of support past due and unpaid.

21 3. "Governor" includes any person performing the
22 functions of governor or the executive authority of
23 any state covered by sections one (1) through forty-
24 three (43) of this Act.

25 4. "Initiating state" means a state in which a
26 proceeding pursuant to this or a substantially similar
27 reciprocal law is commenced.

28 5. "Initiating court" means the court in which
29 a proceeding is commenced.

30 6. "Law" includes both common and statutory law.

31 7. "Obligee" means a person including a state
32 or political subdivision to whom a duty of support
33 is owed or a person including a state or political
34 subdivision that has commenced a proceeding for
35 enforcement of an alleged duty of support or for
36 registration of a support order. It is immaterial
37 if the person to whom a duty of support is owed is
38 a recipient of public assistance.

39 8. "Obligor" means any person owing a duty of
40 support or against whom a proceeding for the
41 enforcement of a duty of support or registration of
42 a support order is commenced.

43 9. "Prosecuting attorney" means the public official
44 in the appropriate place who has the duty to enforce
45 criminal laws relating to the failure to provide for
46 the support of any person.

47 10. "Register" means to file in the registry of
48 foreign support orders.

49 11. "Registering court" means any court of this
50 state in which a support order of a rendering state

is registered.

12. "Rendering state" means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.

13. "Responding state" means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced.

14. "Responding court" means the court in which the responsive proceeding is commenced.

15. "State" includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.

16. "Support order" means any judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered.

Sec. 3. NEW SECTION. REMEDIES ADDITIONAL TO THOSE NOW EXISTING. The remedies provided in sections one (1) through forty-three (43) of this Act are in addition to any other remedies.

Sec. 4. NEW SECTION. EXTENT OF DUTIES OF SUPPORT. Duties of support arising under the law of this state, when applicable under section seven (7) of this Act, bind the obligor present in this state regardless of the presence or residence of the obligee.

Sec. 5. NEW SECTION. INTERSTATE RENDITION. The governor of this state may:

1. Demand of the governor of another state the surrender of a person found in that state who is charged criminally in this state with failing to provide for the support of any person; or

2. Surrender on demand by the governor of another state a person found in this state who is charged criminally in that state with failing to provide for the support of any person. Provisions for extradition of criminals not inconsistent with sections one (1) through forty-three (43) of this Act apply to the demand even if the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and has not fled from the demanding state. The demand, the oath, and any proceedings for extradition pursuant to this section need not state or show that the person whose surrender is demanded has fled from justice or at the time of the commission of the crime was in the demanding state.

Sec. 6. NEW SECTION. CONDITIONS OF INTERSTATE

RENDITION.

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1. Before making the demand upon the governor of another state for the surrender of a person charged criminally in this state with failing to provide for the support of a person, the governor of this state may require any prosecuting attorney of this state to satisfy him or her that at least sixty days prior to the demand the obligee initiated proceedings for support under sections one (1) through forty-three (43) of this Act or that any proceeding would be of no avail.

2. If, under a substantially similar Act, the governor of another state makes a demand upon the governor of this state for the surrender of a person charged criminally in that state with failure to provide for the support of a person, the governor may require any prosecuting attorney to investigate the demand and to report to him or her whether proceedings for support have been initiated or would be effective. If it appears to the governor that a proceeding would be effective but has not been initiated he or she may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

3. If the proceedings have been initiated and the person demanded has prevailed in the proceeding the governor may decline to honor the demand. If the obligee prevailed and the person demanded is subject to a support order, the governor may decline to honor the demand if the person demanded is complying with the support order.

Sec. 7. NEW SECTION. CHOICE OF LAW. Duties of support applicable under sections one (1) through forty-three (43) of this Act are those imposed under the laws of any state where the obligor was present for the period during which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

Sec. 8. NEW SECTION. REMEDIES OF STATE OR POLITICAL SUBDIVISION FURNISHING SUPPORT. If a state or a political subdivision furnishes support to an individual obligee it has the same right to initiate a proceeding under this Act as the individual obligee for the purpose of securing reimbursement for support furnished and of obtaining continuing support.

Sec. 9. NEW SECTION. HOW DUTIES OF SUPPORT ENFORCED. All duties of support, including the duty to pay arrearages, are enforceable by a proceeding under sections one (1) through forty-three (43) of

1 this Act including a proceeding for civil contempt.
2 The defense that the parties are immune to suit because
3 of their relationship as husband and wife or parent
4 and child is not available to the obligor.

5 Sec. 10. NEW SECTION. JURISDICTION. Jurisdiction
6 of any proceeding under sections one (1) through
7 forty-three (43) of this Act is vested in the district
8 court.

9 Sec. 11. NEW SECTION. CONTENTS AND FILING OF
10 PETITION FOR SUPPORT--VENUE.

11 1. The petition shall be verified and shall state
12 the name and, so far as known to the obligee, the
13 address and circumstances of the obligor and the
14 persons for whom support is sought, and all other
15 pertinent information. The obligee may include in
16 or attach to the petition any information which may
17 help in locating or identifying the obligor including
18 a photograph of the obligor, a description of any
19 distinguishing marks on his or her person, other names
20 and aliases by which he or she has been or is known,
21 the name of his or her employer, his or her
22 fingerprints and his or her social security number.

23 2. The petition may be filed in the appropriate
24 court of any state in which the obligee resides.
25 The court shall not decline or refuse to accept and
26 forward the petition on the ground that it should
27 be filed with some other court of this or any other
28 state where there is pending another action for
29 divorce, separation, annulment, dissolution, habeas
30 corpus, adoption, or custody between the same parties
31 or where another court has already issued a support
32 order in some other proceeding and has retained
33 jurisdiction for its enforcement.

34 Sec. 12. NEW SECTION. OFFICIALS TO REPRESENT
35 OBLIGEE. If this state is acting as an initiating
36 state the prosecuting attorney upon the request of
37 the court, or other official acting as obligee's
38 representative shall represent the obligee in any
39 proceeding under sections one (1) through forty-three
40 (43) of this Act. If the prosecuting attorney neglects
41 or refuses to represent the obligee the attorney
42 general may undertake the representation.

43 Sec. 13. NEW SECTION. PETITION FOR A MINOR.
44 A petition on behalf of a minor obligee may be executed
45 and filed by a person having legal custody of the
46 minor without appointment as guardian ad litem.

47 Sec. 14. NEW SECTION. DUTY OF INITIATING COURT.
48 If the initiating court finds that the petition sets
49 forth facts from which it may be determined that the
50 obligor owes a duty of support and that a court of

1 the responding state may obtain jurisdiction of the
2 obligor or his or her property it shall so certify
3 and cause three copies of the petition and its
4 certificate and one copy of sections one (1) through
5 forty-three (43) of this Act to be sent to the respond-
6 ing court. Certification shall be in accordance with
7 the requirements of the initiating state. If the
8 name and address of the responding court is unknown
9 and the responding state has an information agency
10 comparable to that established in the initiating
11 state it shall cause the copies to be sent to the
12 state information agency or other proper official
13 of the responding state, with a request that the
14 agency or official forward them to the proper court
15 and that the court of the responding state acknowledge
16 their receipt to the initiating court.

17 Sec. 15. NEW SECTION. COSTS AND FEES. An
18 initiating court shall not require payment of either
19 a filing fee or other costs from the obligee but may
20 request the responding court to collect fees and costs
21 from the obligor. A responding court shall not require
22 payment of a filing fee or other costs from the obligee
23 but it may direct that all fees and costs requested
24 by the initiating court and incurred in this state
25 when acting as a responding state, including fees
26 for filing of pleadings, service of process, seizure
27 of property, stenographic or duplication service,
28 or other service supplied to the obligor, be paid
29 in whole or in part by the obligor or by the state
30 or political subdivision thereof. These costs or
31 fees do not have priority over amounts due to the
32 obligee.

33 Sec. 16. NEW SECTION. JURISDICTION BY ARREST.
34 If the court of this state believes that the obligor
35 may flee it may:

- 36 1. As an initiating court, request in its
37 certificate that the responding court obtain the body
38 of the obligor by appropriate process; or
39 2. As a responding court, obtain the body of the
40 obligor by appropriate process. The court may release
41 him or her upon his or her own recognizance or upon
42 his or her giving a bond in an amount set by the court
43 to assure his or her appearance at the hearing.

44 Sec. 17. NEW SECTION. STATE INFORMATION AGENCY.

- 45 1. The child support recovery unit of the
46 department of social services is designated as the
47 state information agency under this Act and shall:
48 a. Compile a list of the courts and their addresses
49 in this state having jurisdiction under sections one
50 (1) through forty-three (43) of this Act and transmit

1 it to the state information agency of every other
2 state which has adopted this or a substantially similar
3 Act. Upon the adjournment of each session of the
4 general assembly the agency shall distribute copies
5 of any amendments to the revised uniform reciprocal
6 enforcement of support Act and a statement of their
7 effective date to all other state information agencies;

8 b. Maintain a register of lists of courts received
9 from other states and transmit copies thereof promptly
10 to every court in this state having jurisdiction under
11 sections one (1) through forty-three (43) of this
12 Act; and

13 c. Forward to the court in this state which has
14 jurisdiction over the obligor or his or her property
15 petitions, certificates and copies of the Act it
16 receives from courts or information agencies of other
17 states.

18 2. If the state information agency does not know
19 the location of the obligor or his or her property
20 in the state and no state location service is available
21 it shall use all means at its disposal to obtain this
22 information, including the examination of official
23 records in the state and other sources such as
24 telephone directories, real property records, vital
25 statistics records, police records, requests for the
26 name and address from employers who are able or willing
27 to cooperate, records of motor vehicle license offices,
28 requests made to the tax offices both state and federal
29 where such offices are able to cooperate and requests
30 made to the social security administration as permitted
31 by the social security act as amended.

32 3. After the deposit of three copies of the
33 petition and certificate and one copy of the Act of
34 the initiating state with the clerk of the appropriate
35 court, if the state information agency knows or
36 believes that the prosecuting attorney is not
37 prosecuting the case diligently it shall inform the
38 attorney general who may undertake the representation.

39 Sec. 18. NEW SECTION. DUTY OF THE COURT AND
40 OFFICIALS OF THIS STATE AS RESPONDING STATE.

41 1. After the responding court receives copies
42 of the petition, certificate and act from the
43 initiating court the clerk of the court shall docket
44 the case and notify the prosecuting attorney of his
45 or her action.

46 2. The prosecuting attorney shall prosecute the
47 case diligently. He or she shall take all action
48 necessary in accordance with the laws of this state
49 to enable the court to obtain jurisdiction over the
50 obligor or his or her property and shall request the

1 court to set a time and place for a hearing and give
2 notice thereof to the obligor in accordance with law.

3 3. If the prosecuting attorney neglects or refuses
4 to represent the obligee, the attorney general may
5 undertake the representation as authorized in section
6 thirteen point two (13.2), subsection two (2) of the
7 Code.

8 Sec. 19. NEW SECTION. FURTHER DUTIES OF COURT
9 AND OFFICIALS IN THE RESPONDING STATE.

10 1. The prosecuting attorney on his or her own
11 initiative shall use all means at his or her disposal
12 to locate the obligor or his or her property, and
13 if because of inaccuracies in the petition or otherwise
14 the court cannot obtain jurisdiction the prosecuting
15 attorney shall inform the court of what he or she
16 has done and request the court to continue the case
17 pending receipt of more accurate information or an
18 amended petition from the initiating court.

19 2. If the obligor or his or her property is not
20 found in the county and the prosecuting attorney
21 discovers that the obligor or his or her property
22 may be found in another county of this state or in
23 another state he or she shall so inform the court.
24 Thereupon the clerk of the court shall forward the
25 documents received from the court in the initiating
26 state to a court in the other county or to a court
27 in the other state or to the information agency or
28 other proper official of the other state with a request
29 that the documents be forwarded to the proper court.
30 All powers and duties provided by sections one (1)
31 through forty-three (43) of this Act apply to the
32 recipient of the documents so forwarded. If the clerk
33 of a court of this state forwards documents to another
34 court he or she shall forthwith notify the initiating
35 court.

36 3. If the prosecuting attorney has no information
37 as to the location of the obligor or his or her
38 property he or she shall so inform the initiating
39 court.

40 Sec. 20. NEW SECTION. HEARING AND CONTINUANCE.
41 If the obligee is not present at the hearing and the
42 obligor denies owing the duty of support alleged in
43 the petition or offers evidence constituting a defense
44 the court, upon request of either party, shall continue
45 the hearing to permit evidence relative to the duty
46 to be adduced by either party by deposition or by
47 appearing in person before the court. The court may
48 designate the judge of the initiating court as a
49 person before whom a deposition may be taken.

50 Sec. 21. NEW SECTION. IMMUNITY FROM CRIMINAL

1 PROSECUTION. If at the hearing the obligor is called
2 for examination as an adverse party and declines to
3 answer upon the ground that the testimony may tend
4 to incriminate him or her, the court may require the
5 obligor to answer, in which event the obligor is
6 immune from criminal prosecution with respect to
7 matters revealed by his or her testimony, except for
8 perjury committed in this testimony.

9 Sec. 22. NEW SECTION. EVIDENCE OF HUSBAND AND
10 WIFE. Laws attaching a privilege against or forbidding
11 the disclosure of communications between husband and
12 wife are inapplicable to proceedings under this Act.
13 Husband and wife are competent witnesses and may be
14 compelled to testify to any relevant matter, including
15 marriage and parentage.

16 Sec. 23. NEW SECTION. RULES OF EVIDENCE. In
17 any hearing for the civil enforcement of sections
18 one (1) through forty-three (43) of this Act the court
19 is governed by the rules of evidence applicable in
20 a civil court action in the district court. If the
21 action is based on a support order issued by another
22 court a certified copy of the order shall be received
23 as evidence of the duty of support, subject only to
24 any defenses available to an obligor with respect
25 to paternity or to a defendant in an action or a
26 proceeding to enforce a foreign money judgment. The
27 determination or enforcement of a duty of support
28 owed to one obligee is unaffected by an interference
29 by another obligee with rights of custody or visitation
30 granted by a court.

31 Sec. 24. NEW SECTION. ORDER OF SUPPORT. If the
32 responding court finds a duty of support it may order
33 the obligor to furnish support or reimbursement
34 therefor and subject the property of the obligor to
35 the order. Support orders made pursuant to section
36 one (1) through forty-three (43) of this Act shall
37 require that payments be made to the clerk of the
38 court of the responding state. The court and
39 prosecuting attorney of any county in which the obligor
40 is present or has property have the same powers and
41 duties to enforce the order as have those of the
42 county in which it was first issued. If enforcement
43 is impossible or cannot be completed in the county
44 in which the order was issued, the prosecuting attorney
45 shall send a certified copy of the order to the
46 prosecuting attorney of any county in which it appears
47 that proceedings to enforce the order would be
48 effective. The prosecuting attorney to whom the
49 certified copy of the order is forwarded shall proceed
50 with enforcement and report the results of the

proceedings to the court first issuing the order.

Sec. 25. NEW SECTION. WELFARE RECIPIENTS--
ASSIGNMENT OF SUPPORT PAYMENTS.

1. Any person entitled to periodic support payments pursuant to an order of judgment entered in a uniform support action pursuant to sections one (1) through forty-three (43) of this Act, who is also a welfare recipient, shall assign the rights to such payments to the department of social services of the state granting such assistance. The clerk of court shall forward support payments received pursuant to sections one (1) through forty-three (43) of this Act to the department. The department of social services shall have the right to secure support payments in default through proceedings provided in sections one (1) through forty-three (43) of this Act.

2. The clerk shall furnish the department of social services with copies of all orders or decrees awarding support to parties having custody of minor children when such parties are receiving welfare assistance.

Sec. 26. NEW SECTION. RESPONDING COURT TO TRANSMIT COPIES TO INITIATING COURT. The responding court shall cause a copy of all support orders to be sent to the initiating court.

Sec. 27. NEW SECTION. ADDITIONAL POWERS OF RESPONDING COURT. In addition to the foregoing powers a responding court may subject the obligor to any terms and conditions proper to assure compliance with its orders and in particular to:

1. Require the obligor to furnish a cash deposit or a bond of a character and amount to assure payment of any amount due;

2. Require the obligor to report personally and to make payments at specified intervals to the clerk of the court; and

3. Punish under the power of contempt the obligor who violates any order of the court.

Sec. 28. NEW SECTION. PATERNITY. If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both of the parties are present at the hearing or the proof required in the case indicates that the presence of either or both of the parties is not necessary, the court may adjudicate the paternity issue. Otherwise the court may adjourn the hearing until the paternity issue has been adjudicated.

Sec. 29. NEW SECTION. ADDITIONAL DUTIES OF RESPONDING COURT. A responding court has the following

duties which may be carried out through the clerk of the court:

1
2 1. To transmit to the initiating court any payment
3 made by the obligor pursuant to any order of the court
4 or otherwise; and

5 2. To furnish to the initiating court upon request
6 a certified statement of all payments made by the
7 obligor.

8 Sec. 30. NEW SECTION. ADDITIONAL DUTY OF
9 INITIATING COURT. An initiating court shall receive
10 and disburse forthwith all payments made by the obligor
11 or sent by the responding court. This duty may be
12 carried out through the clerk of the court.

13 Sec. 31. NEW SECTION. PROCEEDINGS NOT TO BE
14 STAYED. A responding court shall not stay the
15 proceeding or refuse a hearing under sections one
16 (1) through forty-three (43) of this Act because of
17 any pending or prior action or proceeding for divorce,
18 separation, annulment, dissolution, habeas corpus,
19 adoption, or custody in this or any other state.
20 The court shall hold a hearing and may issue a support
21 order pendente lite. In aid thereof it may require
22 the obligor to give a bond for the prompt prosecution
23 of the pending proceeding. If the other action or
24 proceeding is concluded before the hearing in the
25 instant proceeding and the judgment therein provides
26 for the support demanded in the petition being heard
27 the court must conform its support order to the amount
28 allowed in the other action or proceeding. Thereafter
29 the court shall not stay enforcement of its support
30 order because of the retention of jurisdiction for
31 enforcement purposes by the court in the other action
32 or proceeding.

33 Sec. 32. NEW SECTION. APPLICATION OF PAYMENTS.
34 A support order made by a court of this state pursuant
35 to sections one (1) through forty-three (43) of this
36 Act does not nullify and is not nullified by a support
37 order made by a court of this state pursuant to any
38 other law or by a support order made by a court of
39 any other state pursuant to a substantially similar
40 Act or any other law, regardless of priority of
41 issuance, unless otherwise specifically provided by
42 the court. Amounts paid for a particular period
43 pursuant to any support order made by the court of
44 another state shall be credited against the amounts
45 accruing or accrued for the same period under any
46 support order made by the court of this state.

47 Sec. 33. NEW SECTION. EFFECT OF PARTICIPATION
48 IN PROCEEDING. Participation in any proceeding under
49 sections one (1) through forty-three (43) of this
50

1 Act does not confer jurisdiction upon any court over
2 any of the parties in any other proceeding.

3 Sec. 34. NEW SECTION. INTRASTATE APPLICATION.
4 Sections one (1) through forty-three (43) of this
5 Act apply if both the obligee and the obligor are
6 in this state but in different counties, or if both
7 the obligor and the obligee are residents of the same
8 county. If the court of the county in which the
9 petition is filed finds that the petition sets forth
10 facts from which it may be determined that the ob-
11 ligor owes a duty of support and finds that a court
12 of another county in this state may obtain jurisdiction
13 over the obligor or his or her property, the clerk
14 of the court shall send the petition and a
15 certification of the findings to the court of the
16 county in which the obligor or his or her property
17 is found. The clerk of the court of the county
18 receiving these documents shall notify the prosecuting
19 attorney of their receipt. The prosecuting attorney
20 and the court in the county to which the copies are
21 forwarded then shall have duties corresponding to
22 those imposed upon them when acting for this state
23 as a responding state.

24 Sec. 35. NEW SECTION. APPEALS. If the attorney
25 general is of the opinion that a support order is
26 erroneous and presents a question of law warranting
27 an appeal in the public interest, the attorney general
28 may:

29 1. Perfect an appeal to the proper appellate court
30 if the support order was issued by a court of this
31 state, or

32 2. If the support order was issued in another
33 state, cause the appeal to be taken in the other
34 state. In either case expenses of appeal may be paid
35 on the attorney general's order from funds appropriated
36 for his or her office.

37 Sec. 36. NEW SECTION. ADDITIONAL REMEDIES. If
38 the duty of support is based on a foreign support
39 order, the obligee has the additional remedies provided
40 in the following sections.

41 Sec. 37. NEW SECTION. REGISTRATION. The obligee
42 may register the foreign support order in a court
43 of this state in the manner, with the effect, and
44 for the purposes herein provided.

45 Sec. 38. NEW SECTION. REGISTRY OF FOREIGN SUPPORT
46 ORDERS. The clerk of the court shall maintain a
47 registry of foreign support orders in which the clerk
48 shall file foreign support orders.

49 Sec. 39. NEW SECTION. OFFICIAL TO REPRESENT
50 OBLIGEE. If this state is acting either as a rendering

1 or a registering state the prosecuting attorney upon
2 the request of the court shall represent the obligee
3 in proceedings under sections thirty-six (36) to
4 forty-one (41) of this Act.

5 If the prosecuting attorney neglects or refuses
6 to represent the obligee, the attorney general may
7 undertake the representation.

8 Sec. 40. NEW SECTION. REGISTRATION PROCEDURE-
9 -NOTICE.

10 1. An obligee seeking to register a foreign support
11 order in a court of this state shall transmit to the
12 clerk of the court three certified copies of the order
13 with all modifications, one copy of the reciprocal
14 enforcement of support act of the state in which the
15 order was made, and a statement verified and signed
16 by the obligee, showing the post office address of
17 the obligee, the last known place of residence and
18 post office address of the obligor, the amount of
19 support remaining unpaid, a description and the
20 location of any property of the obligor available
21 upon execution, and a list of the states in which
22 the order is registered. Upon receipt of these
23 documents the clerk of the court, without payment
24 of a filing fee or other cost to the obligee, shall
25 file them in the registry of foreign support orders.
26 The filing constitutes registration under sections
27 one (1) through forty-three (43) of this Act.

28 2. Promptly upon registration the clerk of the
29 court shall send by certified or registered mail to
30 the obligor at the address given a notice of the
31 registration with a copy of the registered support
32 order and the post office address of the obligee.
33 He or she shall also docket the case and notify the
34 prosecuting attorney of his or her action. The
35 prosecuting attorney shall proceed diligently to
36 enforce the order.

37 Sec. 41. NEW SECTION. EFFECT OF REGISTRATION-
38 -ENFORCEMENT PROCEDURE.

39 1. Upon registration the registered foreign support
40 order shall be treated in the same manner as a support
41 order issued by a court of this state. It has the
42 same effect and is subject to the same procedures,
43 defenses, and proceedings for reopening, vacating,
44 or staying as a support order of this state and may
45 be enforced and satisfied in like manner.

46 2. The obligor has twenty days after the mailing
47 of notice of the registration in which to petition
48 the court to vacate the registration or for other
49 relief. If the obligor does not so petition the
50 registered support order is confirmed.

3. At the hearing to enforce the registered support order the obligor may present only matters that would be available to him or her as defenses in an action to enforce a foreign money judgment. If the obligor shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If the obligor shows to the court any ground upon which enforcement of a support order of this state may be stayed the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this state.

18 Sec. 42. NEW SECTION. UNIFORMITY OF
19 INTERPRETATION. Sections one (1) through forty-three
20 (43) of this Act shall be so construed as to effectuate
21 its general purpose to make uniform the law of those
22 states which enact it.

23 Sec. 43. NEW SECTION. SHORT TITLE. Sections
24 one (1) through forty-three (43) of this Act may be
25 cited as the "Revised Uniform Reciprocal Enforcement
26 of Support Act".

27 2. Page 1, by inserting after line 27 the following
28 section:

29 "Sec. _____. Chapter two hundred fifty-two A (252A),
30 Code 1977, is repealed."

31 3. By amending the title, line 2, by inserting
32 after the word "orders" the words "and establishing
33 a revised uniform reciprocal enforcement of support
34 Act".

35 4. By renumbering the sections to conform with
36 this amendment.
37

SENATE FILE 149

AN ACT

RELATING TO MANDATORY WAGE ASSIGNMENT IN CHILD SUPPORT ORDERS.

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

Section 1. Section five hundred ninety-eight point twenty-three (598.23), unnumbered paragraph two (2), Code 1977, is amended to read as follows:

The court may, as an alternative to punishment for contempt, make an order directing the defaulting party to assign a sufficient amount in salary or wages due, or to become due in the future, from an employer or successor employers, to the clerk of the court where the order or judgment was granted for the purpose of paying the sums in default as well as those to be made in the future. The assignment order shall not be binding upon the employer only for those amounts that represent child support and only if-but-the-court-shall-send upon receipt by the employer of a copy of the order, signed by the employee-to-the-employer-and-request-his-co-operation in-deducting-support-payments. For each payment deducted in compliance with such request, the employer shall receive one dollar to cover the expense created by the deduction, which amount shall be deducted from the money due the employee. Compliance by an employer with the court's request shall operate as a discharge of his liability to the employee as to the affected portion of the employee's wages.

Sec. 2. Section five hundred thirty-seven point five thousand one hundred five (537.5105), subsection one (1), paragraph a, Code 1977, is amended to read as follows:

a. "Disposable earnings" means that part of the earnings

of an individual remaining after the deduction from those earnings of amounts required by law to be withheld or assigned.

ARTHUR A. NEU
President of the Senate

DALE M. COCHRAN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 149, Sixty-seventh General Assembly.

KEVIN P. LIGHT
Acting Secretary of the Senate

Approved June 5, 1978

ROBERT D. RAY
Governor