

Sen. Judiciary 3/12 Do Pass 3/23 (p. 999)
 HOUSE FILE 2467 *Sen. Finance Do Pass 3/29*
(p. 1112)

Judiciary
 Mann. Chair
 Gentleman
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HOUSE FILE 2467

MAR 6 1984

BY COMMITTEE ON JUDICIARY AND
 LAW ENFORCEMENT

Place On Calendar

(Formerly Studya Bill 768)

Passed House, Date 3-9-84 (p. 871) Passed Senate, Date 3-30-84 (p. 1186)

Vote: Ayes 90 Nays 7 Vote: Ayes 44 Nays 3

Approved May 14, 1984

Repassed House 4-3-84 (p. 1608)
92-4

A BILL FOR

1 An Act relating to administrative procedures for the
 2 establishment, determination, and collection of certain
 3 child support debts.
 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 2467
 FISCAL NOTE
 REQUESTED BY REPRESENTATIVE HAMMOND

In compliance with a written request received March 7, 1984, there is hereby submitted a Fiscal Note for House File 2467 pursuant to Joint Rule 17. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the General Assembly upon request.

House File 2467 creates administrative procedures for the establishment, determination, and collection of child support debts assigned to the department of Human Services by public assistance recipients or to be enforced by the Child Support Recovery unit.

Fiscal Effect: House File 2467 would increase child support collection by approximately \$67,500 (state share - \$30,000) in FY 85 and approximately \$600,000 (state share - \$269,000) in FY-86. Child support recoveries are deposited in the ADC fund and are used to reduce the state share and federal share of the ADC program.

	FY - 85			FY - 86		
	Current Law	HF 2467	Incr/ (Decr)	Current Law	HF 2467	Incr/ (Decr)
State	\$ 8,505,000	\$8,535,000	\$30,000	\$8,728,000	\$8,997,000	\$269,000
Federal	10,495,000	10,532,500	37,500	10,772,000	11,103,000	331,000
Total	\$ 19,000,000	\$19,067,500	\$67,500	\$19,500,000	\$20,100,000	\$600,000

Sources: Department of Human Services (3303H, 84-250D, TCF)
 FILED MARCH 8, 1984 BY DENNIS PROUTY, FISCAL DIRECTOR

HF 2467

1 Section 1. NEW SECTION. 252C.1 DEFINITIONS. As used
2 in this chapter, unless the context otherwise requires:

3 1. "Caretaker" means a parent, relative, guardian, or
4 another person who is responsible for paying foster care costs
5 pursuant to chapter 234 or whose needs are included in an
6 assistance payment made pursuant to chapter 239.

7 2. "Court order" means a judgment or order of a court
8 of this state or another state requiring the payment of a
9 set or determinable amount of monetary support.

10 3. "Department" means the department of human services.

11 4. "Dependent child" means a person who meets the
12 eligibility criteria established in chapter 234 or 239 and
13 whose support is required by chapter 234, 239, 252A, 598,
14 or 675.

15 5. "Director" means the director of the child support
16 recovery unit of the department of human services, or the
17 director's designee.

18 6. "Public assistance" means foster care costs paid by
19 the department pursuant to chapter 234 or assistance provided
20 pursuant to chapter 239.

21 7. "Responsible person" means a parent, relative, guardian,
22 or another person legally liable for the support of a child
23 or a child's caretaker.

24 Sec. 2. NEW SECTION. 252C.2 ASSIGNMENT--CREATION OF
25 SUPPORT DEBT--LIEN CREATED--SUBROGATION.

26 1. By accepting public assistance for or on behalf of
27 a dependent child or a dependent child's caretaker, the
28 recipient is deemed to have made an assignment to the
29 department of any and all right, title, and interest in any
30 support obligation and arrearages owed to or for the child
31 or caretaker up to the amount of public assistance paid for
32 or on behalf of the child or caretaker.

33 2. The payment of public assistance to or for the benefit
34 of a dependent child or a dependent child's caretaker creates
35 a support debt due and owing to the department by the

1 responsible person in an amount equal to the public assistance
2 payment, except that the support debt is limited to the amount
3 of a support obligation established by court order or by the
4 director. If a court order has not been entered, the director
5 may establish a support debt in an amount determined to be
6 consistent with the debtor's ability to pay, both as to amounts
7 accrued and accruing, and with a schedule of minimum support
8 obligations established by the department. However, a support
9 debt is not created in favor of the department against a
10 responsible person who is at the time a recipient of public
11 assistance for the benefit of the dependent child or the
12 dependent child's caretaker.

13 3. The provision of child support collection or paternity
14 determination services under chapter 252B to an individual,
15 even though the individual is ineligible for public assistance,
16 creates a support debt due and owing to the individual or
17 the individual's child or ward by the responsible person in
18 the amount of a support obligation established by court order
19 or by the director. If a court order has not been entered,
20 the director may establish a support debt in favor of the
21 individual or the individual's child or ward and against the
22 responsible person, in an amount determined to be consistent
23 with the responsible person's ability to pay, both as to
24 amounts accrued and accruing, and with a schedule of minimum
25 support obligations established by the department.

26 4. The department has a lien against the real and personal
27 property of a responsible person in an amount equal to the
28 amount of the support debt created or established under
29 subsection 2 or 3.

30 5. The department is subrogated to the rights of a
31 dependent child or a dependent child's caretaker to bring
32 a court action or to execute an administrative remedy for
33 the collection of support or determination of paternity.
34 The director may petition an appropriate court for modification
35 of a court order on the same grounds as a party to the court

1 order can petition the court for modification.

2 Sec. 3. NEW SECTION. 252C.3 NOTICE OF SUPPORT DEBT
3 INVOLVING COURT-ORDERED SUPPORT. The director may issue a
4 notice demanding payment of an accrued or accruing support
5 debt due and owed to the department or an individual under
6 section 252C.2 in those cases where the support obligation
7 has been established by court order. The notice shall either
8 be served upon the debtor in accordance with the rules of
9 civil procedure or be sent by restricted certified mail to
10 the debtor's last known address. The notice shall include
11 a copy of the court order; the amount of any monthly public
12 assistance creating a support debt; a computation of the
13 support debt; a statement that the property of the debtor
14 is subject to appropriate collection procedures including
15 but not limited to the execution of an attachment, lien, wage
16 assignment, or garnishment; and a statement that the net
17 proceeds will be applied to the satisfaction of the support
18 debt. If the notice is properly served upon the debtor, the
19 debtor is responsible for notifying the department by certified
20 mail of a change in the debtor's address or employment.

21 Sec. 4. NEW SECTION. 252C.4 NOTICE OF SUPPORT DEBT--
22 ADMINISTRATIVE HEARING, DETERMINATION, AND APPEAL.

23 1. In the absence of a court order, the director may issue
24 a notice establishing and demanding payment of an accrued
25 or accruing support debt due and owed to the department or
26 an individual under section 252C.2. The notice shall be
27 served upon the debtor in accordance with the rules of civil
28 procedure. The notice shall include the amount of any monthly
29 public assistance creating a support debt; a computation of
30 the support debt; the name of a public assistance recipient
31 and the name of the dependent child or caretaker for whom
32 the public assistance is paid; a demand for immediate payment
33 of the support debt or, in the alternative, a demand that
34 the debtor file an answer with the director within twenty
35 days of the date of service stating a defense to liability

1 for the support debt; a statement that if an answer or full
2 payment is not received within twenty days from the date of
3 the service, the support debt will be established and
4 determined according to the computation, and the property
5 of the debtor will be subject to appropriate collection
6 procedures, including but not limited to the execution of
7 an attachment, lien, wage assignment, or garnishment; and
8 a statement that the net proceeds will be applied to the
9 satisfaction of the support debt.

10 2. If an answer is not received by the director within
11 twenty days of the date of service, the support debt shall
12 be established and determined according to the computation
13 and the director may initiate collection procedures under
14 this chapter or chapter 252B.

15 3. If the debtor files an answer with the director within
16 twenty days of the date of service stating a defense to
17 liability for the support debt, the debtor has a right to
18 a hearing.

19 4. The debtor, a dependent child, or a caretaker has a
20 right to a hearing upon written request filed with the director
21 within twenty days after the receipt of notice of an adverse
22 action by the director relating to the establishment,
23 determination, or collection of a support debt.

24 5. A hearing required under this chapter shall be
25 conducted, by an administrative hearing officer designated
26 by the director, in accordance with chapter 17A and the rules
27 of the department. The hearing shall be held within thirty
28 days after the filing of the answer or request, except that
29 the department, by rule, may allow postponements and
30 continuances if in the interests of justice. The notice of
31 the scheduling of a hearing shall be sent by regular mail
32 at least ten days prior to the hearing. The hearing officer
33 shall make specific findings regarding the liability of the
34 debtor and the amount of the liability computed on the basis
35 of the amount of assistance paid or to be paid, the ability

1 to pay, and the schedule of minimum support obligations
2 established by the department. In making the findings, the
3 hearing officer shall consider the necessities of the dependent
4 child, the amount of the support debt claimed, the amount
5 of any public assistance paid or to be paid, the abilities
6 and resources of the debtor, and the public policy requiring
7 responsible parents to support their children in order to
8 relieve, to the greatest extent possible, the burden of public
9 assistance costs upon the general citizenry. The hearing
10 officer's proposed decision shall establish and determine
11 the support debt of a debtor found to be liable for support.

12 6. If the debtor fails to appear at the hearing, upon
13 a showing of proper notice to the debtor, the hearing officer
14 shall enter specific findings and establish and determine
15 the support debt in accordance with the notice demanding
16 payment of an accrued or accruing support debt.

17 7. The hearing officer's proposed decision if adopted
18 by the director, or the director's final decision, is subject
19 to judicial review pursuant to chapter 17A.

20 Sec. 5. NEW SECTION. 252C.5 LIEN. If the director
21 reasonably believes that the debtor is not a resident of this
22 state, is about to move from this state, or is concealing
23 the debtor's whereabouts, or that the debtor has removed or
24 is about to remove, secrete, waste, or otherwise dispose of
25 property which could be made subject to collection procedures
26 to satisfy the support debt, the director may file and serve
27 liens pursuant to sections 252C.6 and 252C.7. The director
28 shall make and file in the record of the hearing an affidavit
29 stating the reasons upon which such belief is founded.
30 However, if the debtor furnishes a bond satisfactory to the
31 director in an amount double the amount claimed, the director
32 shall release the liens. If the decision of the hearing
33 officer is in favor of the debtor, the director shall release
34 all liens.

35 Sec. 6. NEW SECTION. 252C.6 ASSERTION OF LIEN--EFFECT.

1 Twenty-one days after service of notice of a support debt
2 under section 252C.3, or twenty-one days after service of
3 notice of a support debt, if an answer is not received, or
4 pursuant to a final decision by a hearing officer or the
5 director under section 252C.4, the director may assert a lien
6 against the real or personal property of the debtor by filing
7 a notice of the support debt and a verified lien statement
8 with the county recorder of the county in which the property
9 is located. The notice of a support debt shall state the
10 amount of a support debt accrued or accruing. Exemptions
11 of property from attachment, seizure, execution, and sale
12 under section 627.6 apply to proceedings under this chapter.
13 The lien has the same priority as does a secured creditor,
14 and the lien is separate and in addition to any other lien
15 created pursuant to this title.

16 If a support lien has been filed and if property subject
17 to the lien is in the possession of a person having notice
18 of the lien, the property shall not be paid over, released,
19 sold, transferred, encumbered, or conveyed, except as provided
20 for by the exemptions contained in section 252C.8, unless
21 a written release or waiver signed by the director has been
22 delivered to the person.

23 Sec. 7. NEW SECTION. 252C.7 SERVICE OF NOTICE OF LIEN
24 AGAINST EARNINGS. The director at any time after the filing
25 of a support lien may serve, either in the manner prescribed
26 for the service of original notice in a civil action or by
27 restricted certified mail, copies of the notice of the support
28 debt and the verified lien statement upon a person in
29 possession of earnings, deposits, or balances held in an
30 account due, owing, or belonging to the debtor. A lien filed
31 under section 252C.6 has no effect against a debtor's earnings,
32 deposits, or balances in the possession of another person
33 unless service of the notice and statement has been
34 accomplished pursuant to this section.

35 Sec. 8. NEW SECTION. 252C.8 EXECUTION OF LIEN. If a

1 support lien has been filed pursuant to section 252C.6, the
2 director may collect the support debt stated in the lien by
3 execution upon and sale of property subject to the lien.
4 The director shall notify, by restricted certified mail, the
5 debtor and any other person known to have or claim an interest
6 in the property, of the description of the property to be
7 sold and the time and place of the sale. The director shall
8 post a notice describing the property to be sold in at least
9 two public places in the county in which the property is
10 located. The time of sale shall not be less than ten nor
11 more than twenty days from the date of posting of the public
12 notices. The director shall conduct the sale of the property
13 by parcel or by lot at public auction. The director may set
14 a minimum reasonable price to include the expenses of making
15 the levy of execution and of advertising the sale, and if
16 the amount bid for the property at public auction is not equal
17 to the set price, the director may purchase the property for
18 the department for the set price, or may conduct another sale
19 of the property at public auction. If the department purchases
20 the property at public auction, the director may sell the
21 property at a public or private sale, and the proceeds of
22 the sale shall be placed in the state treasury to the credit
23 of the department. Otherwise, the proceeds of the sale,
24 except in those cases where the property has been purchased
25 by the department, shall first be applied by the director
26 to the costs of the levy of execution and sale and to the
27 satisfaction of the support debt, and the remaining proceeds
28 shall be refunded to the debtor.

29 Upon the sale of the property, the director shall issue
30 a bill of sale or a deed to the purchaser. The bill of sale
31 or deed is prima facie evidence of the right of the director
32 to sell the property and is conclusive evidence of the
33 regularity of the sale. The issuing of the bill of sale or
34 deed transfers all right, title, and interest of the debtor
35 in the property to the purchaser. A debtor, prior to sale

1 of the debtor's property pursuant to this chapter, may pay
2 the amount of the support debt due, together with expenses
3 of the proceedings and reasonable attorney fees, to the
4 department or an individual and upon payment the department
5 shall restore the property to the debtor and terminate
6 proceedings under this chapter. The debtor may within ninety
7 days after sale of the property, redeem the property by paying
8 the purchaser the purchase price plus interest at the rate
9 provided in section 535.3 for court judgments.

10 Sec. 9. NEW SECTION. 252C.9 ADMINISTRATIVE PATERNITY
11 AND SUPPORT ORDERS.

12 1. The director may enter an order establishing the
13 paternity of a child and the support obligation of the father
14 in the course of a support proceeding under this chapter.
15 The director shall file the paternity and support order with
16 the appropriate clerk of the district court who shall enter
17 the order on the judgment docket.

18 2. The state registrar of vital statistics, upon the
19 receipt of a copy of the paternity order, shall prepare a
20 new birth certificate in the new name, if any, of the child,
21 and shall list the father on the certificate. The original
22 birth certificate shall be sealed and filed and may be opened
23 only upon order of a court of competent jurisdiction.

24 3. A copy of the paternity and support order may be filed
25 in the office of the clerk of the district court of any county.
26 Upon filing the clerk shall enter the order on the judgment
27 docket. The entering of the order on the judgment docket
28 constitutes a judgment lien against the father's real and
29 personal property located in the county. The lien has the
30 same priority as do claims for taxes. The lien may be executed
31 or the order may be enforced by any appropriate collection
32 procedures including but not limited to attachment, wage
33 assignment or garnishment. The lien is separate and in
34 addition to any other lien provided by law. If the father
35 has petitioned for a dissolution of marriage in the county,

1 the clerk shall file a copy of the order under the civil
2 number of the dissolution action.

3 Sec. 10. NEW SECTION. 252C.10 RELEASE OF LIEN. The
4 director may at any time release a support lien, or release
5 an order to seize property, on all or part of the property
6 of the debtor, or return seized property without liability,
7 if assurance of payment of the support debt is deemed adequate
8 by the director, or if the release will facilitate the
9 collection of the support debt. However, the release does
10 not bar future action to collect the support debt from the
11 same or other property.

12 Sec. 11. NEW SECTION. 252C.11 INTEREST ON SUPPORT DEBTS.
13 Interest accrues on support debts at the rate provided in
14 section 535.3 for court judgments. The director may collect
15 the accrued interest but is not required to maintain interest
16 balance accounts. The department may waive payment of the
17 interest if the waiver will facilitate the collection of the
18 support debt.

19 Sec. 12. NEW SECTION. 252C.13 LIMITATION ON PROCEEDINGS.
20 A proceeding to collect a support debt pursuant to this chapter
21 shall not be begun after six years from the date the support
22 debt was incurred. However, if a lien is filed or served
23 pursuant to this chapter within the six-year period, the lien
24 may be refiled or served or executed after the end of the
25 six-year period.

26 Sec. 13. NEW SECTION. 252C.14 EMPLOYERS--ASSIGNMENTS
27 OF EARNINGS. The employer of a responsible person owing a
28 support debt shall honor a duly executed assignment of current
29 or future earnings presented by the director to the employer
30 as a plan to satisfy or retire the support debt. The
31 assignment is effective until released in writing by the
32 director. The employer is entitled to receive from the debtor
33 a fee of one dollar for each remittance under the assignment.
34 Payment of moneys pursuant to the assignment of earnings is
35 a full acquittance under a contract of employment. The

1 director is released from liability for improper receipt of
2 moneys under an assignment of earnings upon the return of
3 the moneys.

4 Sec. 14. NEW SECTION. 252C.15 EXHAUSTING OF
5 ADMINISTRATIVE PROCEDURES. An action to set aside, vacate,
6 or amend an order issued pursuant to this chapter, or to
7 enjoin the enforcement of the order, shall not be brought
8 unless the plaintiff to the action has applied to the director
9 for a hearing on the order and in the petition at hearing
10 presented every issue presented in the action. This chapter
11 does not affect a right or defense in an action brought by
12 the department under its authority under this title.

13 Sec. 15. NEW SECTION. 252C.16 COURT ORDER PREVAILS.
14 If an order issued pursuant to this chapter conflicts with
15 an order of a court, to the extent of the conflict the court
16 order prevails.

17 Sec. 16. NEW SECTION. 252C.17 RULES. The department
18 shall adopt rules pursuant to chapter 17A to establish a
19 schedule of minimum support obligations and to otherwise
20 implement this chapter.

21 EXPLANATION

22 This bill creates a new Code chapter of administrative
23 procedures for the establishment, determination, and collection
24 of child support debts assigned to the department of human
25 services by public assistance recipients or to be enforced
26 by the child support recovery unit. A support debt is created
27 in favor of the department of human services in the amount
28 of the department's payment of public assistance or in favor
29 of an individual who does not receive public assistance but
30 who receives support collection or paternity determination
31 services from the department. The amount of the support debt,
32 however, is limited to the amount of a support obligation
33 established judicially, or administratively by the director
34 of the child support recovery unit. After notice and
35 opportunity for hearing, the director of the child support

1 recovery unit is authorized to initiate support debt collection
2 procedures, including execution of an attachment, lien, wage
3 assignment, or garnishment. A statutory lien is created for
4 the amount of the support debt. A paternity determination
5 may also be made by the director pursuant to the new
6 administrative procedures. A six-year statute of limitations
7 is placed on proceedings initiated pursuant to the chapter.
8 The department is required to adopt administrative rules
9 establishing a schedule of minimum support obligations and
10 otherwise implementing the bill.

11 The bill contains references to sections within the new
12 chapter 252C.

13 The bill takes effect July 1 following enactment.

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1 Amend House File 2467, as passed by the House,
2 as follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:

5 "Section 1. NEW SECTION. 252C.1 DEFINITIONS.

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

8 1. "Caretaker" means a parent, relative, guardian,
9 or another person who is responsible for paying foster
10 care costs pursuant to chapter 234 or whose needs
11 are included in an assistance payment made pursuant
12 to chapter 239.

13 2. "Court order" means a judgment or order of
14 a court of this state or another state requiring the
15 payment of a set or determinable amount of monetary
16 support.

17 3. "Department" means the department of human
18 services.

19 4. "Dependent child" means a person who meets
20 the eligibility criteria established in chapter 234
21 or 239 and whose support is required by chapter 234,
22 239, 252A, 598, or 675.

23 5. "Director" means the director of the child
24 support recovery unit of the department of human
25 services, or the director's designee.

26 6. "Public assistance" means foster care costs
27 paid by the department pursuant to chapter 234 or
28 assistance provided pursuant to chapter 239.

29 7. "Responsible person" means a parent, relative,
30 guardian, or another person legally liable for the
31 support of a child or a child's caretaker.

32 Sec. 2. NEW SECTION. 252C.2 ASSIGNMENT--CREATION
33 OF SUPPORT DEBT--SUBROGATION.

34 1. By accepting public assistance for or on behalf
35 of a dependent child or a dependent child's caretaker,
36 the recipient is deemed to have made an assignment
37 to the department of any and all right, title, and
38 interest in any support obligation and arrearages
39 owed to or for the child or caretaker up to the amount
40 of public assistance paid for or on behalf of the
41 child or caretaker.

42 2. The payment of public assistance to or for
43 the benefit of a dependent child or a dependent child's
44 caretaker creates a support debt due and owing to
45 the department by the responsible person in an amount
46 equal to the public assistance payment, except that
47 the support debt is limited to the amount of a support
48 obligation established by court order or by the
49 director. If a court order has not been entered,
50 the director may establish a support debt in an amount

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1 determined to be consistent with the debtor's ability
2 to pay and the needs of the dependent child, both
3 as to amounts accrued and accruing, and with a schedule
4 of minimum support obligations established by the
5 department. However, a support debt is not created
6 in favor of the department against a responsible
7 person for the period during which the responsible
8 person is a recipient on the person's own behalf of
9 public assistance for the benefit of the dependent
10 child or the dependent child's caretaker.

11 3. The provision of child support collection or
12 paternity determination services under chapter 252B
13 to an individual, even though the individual is
14 ineligible for public assistance, creates a support
15 debt due and owing to the individual or the
16 individual's child or ward by the responsible person
17 in the amount of a support obligation established
18 by court order or by the director. If a court order
19 has not been entered, the director may establish a
20 support debt in favor of the individual or the
21 individual's child or ward and against the responsible
22 person, in an amount determined to be consistent with
23 the responsible person's ability to pay and the needs
24 of the dependent child, both as to amounts accrued
25 and accruing, and with a schedule of minimum support
26 obligations established by the department.

27 4. The department is subrogated to the rights
28 of a dependent child or a dependent child's caretaker
29 to bring a court action or to execute an administrative
30 remedy for the collection of support. The director
31 may petition an appropriate court for modification
32 of a court order on the same grounds as a party to
33 the court order can petition the court for
34 modification.

35 Sec. 3. NEW SECTION. 252C.3 NOTICE OF SUPPORT
36 DEBT--ADMINISTRATIVE HEARING, DETERMINATION, AND
37 ORDER.

38 1. In the absence of a court order, the director
39 may issue a notice establishing and demanding payment
40 of an accrued or accruing support debt due and owed
41 to the department or an individual under section
42 252C.2. The notice shall be served upon the
43 responsible person in accordance with the rules of
44 civil procedure. The notice shall include all of
45 the following:

46 a. The amount of any monthly public assistance
47 creating a support debt.

48 b. A computation of the support debt.

49 c. The name of a public assistance recipient and
50 the name of the dependent child or caretaker for whom

1 the public assistance is paid.

2 d. A demand for immediate payment of the support
3 debt.

4 e. A statement that if the responsible person
5 desires to discuss the amount of support that the
6 responsible person should be required to pay, the
7 responsible person may, within ten days after being
8 served, contact the office of the child support
9 recovery unit which sent the notice and request a
10 negotiation conference, after which the director may
11 issue a new notice and finding of financial
12 responsibility to be sent to the responsible person
13 by regular mail addressed to the responsible person's
14 last known address, or if applicable, to the
15 responsible person's attorney's last known address.

16 f. A statement that if the responsible person
17 objects to all or any part of the notice or finding
18 of financial responsibility and no negotiation
19 conference is requested, then within twenty days of
20 the date of service, the responsible person shall
21 send to the office of the child support recovery unit
22 which issued the notice a written response setting
23 forth any objections and requesting a hearing.

24 g. A statement that if a negotiation conference
25 is requested, then the responsible person shall have
26 ten days from the date set for the negotiation
27 conference or twenty days from the date of service
28 of the original notice, whichever is later, to send
29 a request for a hearing to an office of the child
30 support recovery unit.

31 h. A statement that if the director issues a new
32 notice and finding of financial responsibility, then
33 the responsible person shall have ten days from the
34 date of issuance of the new notice or twenty days
35 from the date of service of the original notice,
36 whichever is later, to send a request for a hearing
37 to an office of the child support recovery unit.

38 i. A statement that if a timely written request
39 for a hearing is received by an office of the child
40 support recovery unit, the responsible person shall
41 have the right to a hearing to be held in district
42 court; and that if no timely written response is
43 received, the director may enter an order in accordance
44 with the notice and finding of financial
45 responsibility.

46 j. A statement that, as soon as the order is
47 entered, the property of the responsible person is
48 subject to collection action, including but not limited
49 to wage withholding, garnishment, attachment of a
50 lien, and execution.

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1 k. A statement that the responsible person shall
2 notify the director of any change of address or
3 employment.

4 l. A statement that if the responsible person
5 has any questions, the responsible person should
6 telephone or visit an office of the child support
7 recovery unit or consult an attorney.

8 m. Such other information as the director finds
9 appropriate.

10 2. The time limitations for requesting a hearing
11 in subsection 1 may be extended by the director.

12 3. If a timely written response setting forth
13 objections and requesting a hearing is received by
14 the appropriate office of the child support recovery
15 unit, a hearing shall be held in district court.

16 4. If timely written response and request for
17 hearing is not received by an office of the child
18 support recovery unit, the director may enter an order
19 in accordance with the notice, and shall specify all
20 of the following:

21 a. The amount of monthly support to be paid, with
22 directions as to the manner of payment.

23 b. The amount of the support debt accrued and
24 accruing in favor of the department.

25 c. The name of the custodial parent or agency
26 having custody of the dependent child and the name
27 and birthdate of the dependent child for whom support
28 is to be paid.

29 d. A statement that the property of the responsible
30 person is subject to collection action, including
31 but not limited to wage withholding, garnishment,
32 attachment of a lien and execution.

33 5. The responsible person shall be sent a copy
34 of the order by regular mail addressed to the
35 responsible person's last known address, or if
36 applicable, to the responsible person's attorney's
37 last known address. The order is final, and action
38 by the director to enforce and collect upon the order,
39 including arrearages, may be taken from the date of
40 issuance of the order.

41 Sec. 4. NEW SECTION. 252C:5 CERTIFICATION OF
42 ORDER TO DISTRICT COURT--HEARING--DEFAULT UPON FAILURE
43 TO APPEAR.

44 1. If a timely written request for a hearing is
45 received, the director shall certify the matter to
46 the district court in the county in which the order
47 has been filed, or if no such order has been filed,
48 then to a district court in the judicial district
49 where the dependent child resides.

50 2. If the matter has not been heard previously

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1 by the district court, the certification shall include
2 true copies of the notice and finding of financial
3 responsibility or notice of the support debt accrued
4 and accruing, the return of service, the written
5 objections and request for hearing, and true copies
6 of any administrative orders previously entered.

7 3. The court shall set the matter for hearing
8 and notify the parties of the time and place of
9 hearing.

10 4. The court shall consider as a guide the schedule
11 established under section 252C.11 in establishing
12 the monthly support payment and the amount of the
13 support debt accrued and accruing.

14 5. If a party fails to appear at the hearing,
15 upon a showing of proper notice to that party, the
16 court may find that party in default and enter an
17 appropriate order.

18 Sec. 5. NEW SECTION. 252C.6 FILING AND DOCKETING
19 OF FINANCIAL RESPONSIBILITY ORDER--ORDER EFFECTIVE
20 AS DISTRICT COURT DECREE. A true copy of any order
21 entered by the director pursuant to this chapter,
22 along with a true copy of the return of service, if
23 applicable, may be filed in the office of the clerk
24 of the district court in the county in which the
25 dependent child resides. Upon filing, the clerk shall
26 enter the order in the judgment docket, and the order
27 shall have all the force, effect, and attributes of
28 a docketed order or decree of the district court.

29 Sec. 6. NEW SECTION. 252C.7 INTEREST ON SUPPORT
30 DEBTS. Interest accrues on support debts at the rate
31 provided in section 535.3 for court judgments. The
32 director may collect the accrued interest but is not
33 required to maintain interest balance accounts. The
34 department may waive payment of the interest if the
35 waiver will facilitate the collection of the support
36 debt.

37 Sec. 7. NEW SECTION. 252C.8 EMPLOYERS--
38 ASSIGNMENTS OF EARNINGS. In addition to other remedies
39 provided by law for the enforcement of a support
40 obligation, the employer of a responsible person owing
41 a support debt shall honor a duly executed assignment
42 of current or future earnings presented by the director
43 to the employer as a plan to satisfy or retire the
44 support debt. The assignment is effective until
45 released in writing by the director. The employer
46 is entitled to receive from the debtor a fee of one
47 dollar for each remittance under the assignment.
48 Payment of moneys pursuant to the assignment of
49 earnings is a full acquittance under a contract of
50 employment. The director is released from liability

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1 for improper receipt of moneys under an assignment
2 of earnings upon the return of the moneys.

3 Sec. 8. NEW SECTION. 252C.9 PREVENTION OF
4 TRANSFER OF ASSETS OR COMPLIANCE WITH ORDER. If the
5 director reasonably believes that the responsible
6 person is not a resident of this state, is about to
7 move from this state, or is concealing the responsible
8 person's whereabouts, or that the responsible person
9 has removed or is about to remove, secrete, waste,
10 or otherwise dispose of property which could be made
11 subject to collection procedures to satisfy the support
12 debt, the director may petition the district court
13 for a temporary restraining order barring the removal,
14 secretion, waste, or disposal. However, if the
15 responsible person furnishes a bond satisfactory to
16 the court, the temporary restraining order shall be
17 vacated.

18 Sec. 9. NEW SECTION. 252C.10 COURT ORDER
19 PREVAILS. If an order issued pursuant to this chapter
20 conflicts with an order of a court, to the extent
21 of the conflict the court order prevails.

22 Sec. 10. NEW SECTION. 252C.11 RULES.

23 1. The department shall adopt rules pursuant to
24 chapter 17A to establish the minimum support guidelines
25 set out in subsection 2 and to otherwise implement
26 this chapter.

27 2. a. As used in this subsection, "monthly net
28 income" means gross monthly income minus payroll taxes
29 as defined in section 85.61, subsection 10, mandatory
30 pension contributions, health insurance or health
31 benefit payments for dependents, and deductions not
32 to exceed twenty-five dollars per month for individual
33 health insurance, health benefit payments, or medical
34 expenses.

35 b. In ordering a parent to pay reasonable and
36 necessary child support, the court shall set the
37 monthly amount of the child support by multiplying
38 the parent's monthly net income by the percentage
39 indicated in the following guidelines, unless the
40 court makes express findings of fact as to the rea-
41 son for deviating from the guidelines. However, the
42 court may set the child support above the amount in
43 the guidelines without making express findings of
44 fact if the parties expressly agree to the amount
45 of the child support.

	<u>Number of Children</u>						
	1	2	3	4	5	6	7 or more
46							
47	Monthly Net						
48	<u>Income of Parent</u>						
49	\$ 400 and below						
50							

Order based on the ability of the parent
to provide support at these income levels,

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1		or at higher levels, if the parent has the						
2		ability to earn more.						
3	\$ 401 - 500	14%	17%	20%	22%	24%	26%	28%
4	\$ 501 - 550	15%	18%	21%	24%	26%	28%	30%
5	\$ 551 - 600	16%	19%	22%	25%	28%	30%	32%
6	\$ 601 - 650	17%	21%	24%	27%	29%	32%	34%
7	\$ 651 - 700	18%	22%	25%	28%	31%	34%	36%
8	\$ 701 - 750	19%	23%	27%	30%	33%	36%	38%
9	\$ 751 - 800	20%	24%	28%	31%	35%	38%	40%
10	\$ 801 - 850	21%	25%	29%	33%	36%	40%	42%
11	\$ 851 - 900	22%	27%	31%	34%	38%	41%	44%
12	\$ 901 - 950	23%	28%	32%	36%	40%	43%	46%
13	\$ 951 - 1000	24%	29%	34%	38%	41%	45%	48%
14	\$1001 and over	25%	30%	35%	39%	43%	47%	50%

15 c. If the parent is covered by a health insurance
16 or health benefit plan, provided through an employer
17 or an organization, which can be extended to cover
18 the child for whom child support is ordered and if
19 the employer or organization will pay a substantial
20 portion of the cost of extending the plan to the
21 child, the court shall require the parent to exercise
22 the option of extending the coverage to the child
23 and the court shall consider the additional costs
24 of the extension to the parent as a partial payment
25 of the child support ordered pursuant to paragraph
26 "b".

27 d. In applying the guidelines, the court shall
28 consider the following criteria:

29 (1) All earnings, income, and resources of the
30 parent, including real and personal property.

31 (2) The basic living needs of the parent.

32 (3) The financial needs of the child or children
33 to be supported.

34 (4) The amount of the aid to families with
35 dependent children grant for which the child or
36 children could be eligible.

37 e. In applying the guidelines, the court may
38 consider previous support or maintenance orders which
39 the parent is currently paying. The court shall not
40 consider debts owed to private creditors.

41 f. The court, in its child support order, may
42 direct that the monthly amount of child support be
43 periodically adjusted by the clerk of the district
44 court according to the guidelines."

S-5055 FILED
MARCH 23, 1984

BY TOM MANN, JR.

Out of order 3/30 (p. 1186)

HOUSE FILE 2467

S-5571

1 Amend House File 2467, as passed by the House,
2 as follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:

5 "Section 1. NEW SECTION. 252C.1 DEFINITIONS.

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

8 1. "Caretaker" means a parent, relative, guardian,
9 or another person who is responsible for paying foster
10 care costs pursuant to chapter 234 or whose needs
11 are included in an assistance payment made pursuant
12 to chapter 239.

13 2. "Court order" means a judgment or order of
14 a court of this state or another state requiring the
15 payment of a set or determinable amount of monetary
16 support.

17 3. "Department" means the department of human
18 services.

19 4. "Dependent child" means a person who meets
20 the eligibility criteria established in chapter 234
21 or 239 and whose support is required by chapter 234,
22 239, 252A, 598, or 675.

23 5. "Director" means the director of the child
24 support recovery unit of the department of human
25 services, or the director's designee.

26 6. "Public assistance" means foster care costs
27 paid by the department pursuant to chapter 234 or
28 assistance provided pursuant to chapter 239.

29 7. "Responsible person" means a parent, relative,
30 guardian, or another person legally liable for the
31 support of a child or a child's caretaker.

32 Sec. 2. NEW SECTION. 252C.2 ASSIGNMENT--CREATION
33 OF SUPPORT DEBT--SUBROGATION.

34 1. By accepting public assistance for or on behalf
35 of a dependent child or a dependent child's caretaker,
36 the recipient is deemed to have made an assignment
37 to the department of any and all right, title, and
38 interest in any support obligation and arrearages
39 owed to or for the child or caretaker up to the amount
40 of public assistance paid for or on behalf of the
41 child or caretaker.

42 2. The payment of public assistance to or for
43 the benefit of a dependent child or a dependent child's
44 caretaker creates a support debt due and owing to
45 the department by the responsible person in an amount
46 equal to the public assistance payment, except that
47 the support debt is limited to the amount of a support
48 obligation established by court order or by the
49 director. If a court order has not been entered,
50 the director may establish a support debt in an amount

1 determined to be consistent with the debtor's ability
2 to pay and the needs of the dependent child, both
3 as to amounts accrued and accruing, and with the
4 schedule of minimum support guidelines in section
5 252C.10. However, a support debt is not created in
6 favor of the department against a responsible person
7 for the period during which the responsible person
8 is a recipient on the person's own behalf of public
9 assistance for the benefit of the dependent child
10 or the dependent child's caretaker.

11 3. The provision of child support collection or
12 paternity determination services under chapter 252B
13 to an individual, even though the individual is
14 ineligible for public assistance, creates a support
15 debt due and owing to the individual or the
16 individual's child or ward by the responsible person
17 in the amount of a support obligation established
18 by court order or by the director. If a court order
19 has not been entered, the director may establish a
20 support debt in favor of the individual or the
21 individual's child or ward and against the responsible
22 person, in an amount determined to be consistent with
23 the responsible person's ability to pay and the needs
24 of the dependent child, both as to amounts accrued
25 and accruing, and with the schedule of minimum support
26 guidelines in section 252C.10.

27 4. The department is subrogated to the rights
28 of a dependent child or a dependent child's caretaker
29 to bring a court action or to execute an administrative
30 remedy for the collection of support. The director
31 may petition an appropriate court for modification
32 of a court order on the same grounds as a party to
33 the court order can petition the court for
34 modification.

35 Sec. 3. NEW SECTION. 252C.3 NOTICE OF SUPPORT
36 DEBT--ADMINISTRATIVE HEARING, DETERMINATION, AND
37 ORDER.

38 1. In the absence of a court order, the director
39 may issue a notice establishing and demanding payment
40 of an accrued or accruing support debt due and owed
41 to the department or an individual under section
42 252C.2. The notice shall be served upon the
43 responsible person in accordance with the rules of
44 civil procedure. The notice shall include all of
45 the following:

46 a. The amount of any monthly public assistance
47 creating a support debt.

48 b. A computation of the support debt.

49 c. The name of a public assistance recipient and
50 the name of the dependent child or caretaker for whom

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1 the public assistance is paid.

2 d. A demand for immediate payment of the support
3 debt.

4 e. (1) A statement that if the responsible person
5 desires to discuss the amount of support that the
6 responsible person should be required to pay, the
7 responsible person may, within ten days after being
8 served, contact the office of the child support
9 recovery unit which sent the notice and request a
10 negotiation conference.

11 (2) A statement that if a negotiation conference
12 is requested, then the responsible person shall have
13 ten days from the date set for the negotiation
14 conference or twenty days from the date of service
15 of the original notice, whichever is later, to send
16 a request for a hearing to the office of the child
17 support recovery unit which issued the notice.

18 (3) A statement that after the holding of the
19 negotiation conference, the director may issue a new
20 notice and finding of financial responsibility to
21 be sent to the responsible person by regular mail
22 addressed to the responsible person's last known
23 address, or if applicable, to the last known address
24 of the responsible person's attorney.

25 (4) A statement that if the director issues a
26 new notice and finding of financial responsibility,
27 then the responsible person shall have ten days from
28 the date of issuance of the new notice or twenty days
29 from the date of service of the original notice,
30 whichever is later, to send a request for a hearing
31 to the office of the child support recovery unit which
32 issued the notice.

33 f. A statement that if the responsible person
34 objects to all or any part of the notice or finding
35 of financial responsibility and no negotiation
36 conference is requested, then within twenty days of
37 the date of service, the responsible person shall
38 send to the office of the child support recovery unit
39 which issued the notice a written response setting
40 forth any objections and requesting a hearing.

41 g. A statement that if a timely written request
42 for a hearing is received by the office of the child
43 support recovery unit which issued the notice, the
44 responsible person shall have the right to a hearing
45 to be held in district court; and that if no timely
46 written response is received, the director may enter
47 an order in accordance with the notice and finding
48 of financial responsibility.

49 h. A statement that, as soon as the order is
50 entered, the property of the responsible person is

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1 subject to collection action, including but not limited
2 to wage withholding, garnishment, attachment of a
3 lien, and execution.

4 i. A statement that the responsible person shall
5 notify the director of any change of address or
6 employment.

7 j. A statement that if the responsible person
8 has any questions, the responsible person should
9 telephone or visit an office of the child support
10 recovery unit or consult an attorney.

11 k. Such other information as the director finds
12 appropriate.

13 2. The time limitations for requesting a hearing
14 in subsection 1 may be extended by the director.

15 3. If a timely written response setting forth
16 objections and requesting a hearing is received by
17 the appropriate office of the child support recovery
18 unit, a hearing shall be held in district court.

19 4. If timely written response and request for
20 hearing is not received by the appropriate office
21 of the child support recovery unit, the director may
22 enter an order in accordance with the notice, and
23 shall specify all of the following:

24 a. The amount of monthly support to be paid, with
25 directions as to the manner of payment.

26 b. The amount of the support debt accrued and
27 accruing in favor of the department.

28 c. The name of the custodial parent or agency
29 having custody of the dependent child and the name
30 and birthdate of the dependent child for whom support
31 is to be paid.

32 d. That the property of the responsible person
33 is subject to collection action, including but not
34 limited to wage withholding, garnishment, attachment
35 of a lien, and execution.

36 5. The responsible person shall be sent a copy
37 of the order by regular mail addressed to the
38 responsible person's last known address, or if
39 applicable, to the last known address of the
40 responsible person's attorney. The order is final,
41 and action by the director to enforce and collect
42 upon the order, including arrearages, may be taken
43 from the date of issuance of the order.

44 Sec. 4. NEW SECTION. 252C.4 CERTIFICATION OF
45 ORDER TO DISTRICT COURT--HEARING--DEFAULT UPON FAILURE
46 TO APPEAR.

47 1. If a timely written request for a hearing is
48 received, the director shall certify the matter to
49 the district court in the county in which the order
50 has been filed, or if no such order has been filed,

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1 then to a district court in the county where the
2 dependent child resides.

3 2. If the matter has not been heard previously
4 by the district court, the certification shall include
5 true copies of the notice and finding of financial
6 responsibility or notice of the support debt accrued
7 and accruing, the return of service, the written
8 objections and request for hearing, and true copies
9 of any administrative orders previously entered.

10 3. The court shall set the matter for hearing
11 and notify the parties of the time and place of
12 hearing.

13 4. The court shall consider the schedule of minimum
14 support guidelines in section 252C.10 in establishing
15 the monthly support payment and the amount of the
16 support debt accrued and accruing.

17 5. If a party fails to appear at the hearing,
18 upon a showing of proper notice to that party, the
19 court may find that party in default and enter an
20 appropriate order.

21 Sec. 5. NEW SECTION. 252C.5 FILING AND DOCKETING
22 OF FINANCIAL RESPONSIBILITY ORDER--ORDER EFFECTIVE
23 AS DISTRICT COURT DECREE. A true copy of any order
24 entered by the director pursuant to this chapter,
25 along with a true copy of the return of service, if
26 applicable, may be filed in the office of the clerk
27 of the district court in the county in which the
28 dependent child resides. Upon filing, the clerk shall
29 enter the order in the judgment docket, and the order
30 shall have all the force, effect, and attributes of
31 a docketed order or decree of the district court.

32 Sec. 6. NEW SECTION. 252C.6 INTEREST ON SUPPORT
33 DEBTS. Interest accrues on support debts at the rate
34 provided in section 535.3 for court judgments. The
35 director may collect the accrued interest but is not
36 required to maintain interest balance accounts. The
37 department may waive payment of the interest if the
38 waiver will facilitate the collection of the support
39 debt.

40 Sec. 7. NEW SECTION. 252C.7 EMPLOYERS--
41 ASSIGNMENTS OF EARNINGS. In addition to other remedies
42 provided by law for the enforcement of a support
43 obligation, the employer of a responsible person owing
44 a support debt shall honor a duly executed assignment
45 of current or future earnings presented by the director
46 to the employer as a plan to satisfy or retire the
47 support debt. The assignment is effective until
48 released in writing by the director. The employer
49 is entitled to receive from the debtor a fee of one
50 dollar for each remittance under the assignment.

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1 Payment of moneys pursuant to the assignment of
2 earnings is a full acquittance under a contract of
3 employment. The director is released from liability
4 for improper receipt of moneys under an assignment
5 of earnings upon the return of the moneys.

6 Sec. 8. NEW SECTION. 252C.8 PREVENTION OF
7 TRANSFER OF ASSETS OR COMPLIANCE WITH ORDER. If the
8 director reasonably believes that the responsible
9 person is not a resident of this state, is about to
10 move from this state, or is concealing the responsible
11 person's whereabouts, or that the responsible person
12 has removed or is about to remove, secrete, waste,
13 or otherwise dispose of property which could be made
14 subject to collection procedures to satisfy the support
15 debt, the director may petition the district court
16 for a temporary restraining order barring the removal,
17 secretion, waste, or disposal. However, if the
18 responsible person furnishes a bond satisfactory to
19 the court, the temporary restraining order shall be
20 vacated.

21 Sec. 9. NEW SECTION. 252C.9 COURT ORDER PREVAILS.
22 If an order issued pursuant to this chapter conflicts
23 with an order of a court, to the extent of the conflict
24 the court order prevails.

25 Sec. 10. NEW SECTION. 252C.10 SCHEDULE OF MINIMUM
26 SUPPORT GUIDELINES.

27 1. As used in this section, "monthly net income"
28 means gross monthly income minus payroll taxes as
29 defined in section 85.61, subsection 10, mandatory
30 pension contributions, health insurance or health
31 benefit payments for dependents, and deductions not
32 to exceed twenty-five dollars per month for a
33 responsible person's health insurance, health benefit
34 payments, or medical expenses.

35 2. In ordering a responsible person to pay
36 reasonable and necessary child support, the director
37 shall set the monthly amount of the child support
38 by multiplying the responsible person's monthly net
39 income by the percentage indicated in the following
40 guidelines, unless the director makes express findings
41 of fact as to the reason for deviating from the
42 guidelines. However, the director may set the child
43 support above the amount in the guidelines without
44 making express findings of fact if the parties ex-
45 pressly agree to the amount of the child support.

46 Monthly Net	47 Number of Dependent Children						
48 Income of Re-	1	2	3	4	5	6	7 or
49 sponsible Person							more
50 \$ 400 and below							

Order based on the ability of the respon-
sible person to provide support at these

income levels, or at higher levels, if the responsible person has the ability to earn more.

2									
3									
4	\$ 401 - 500	14%	17%	20%	22%	24%	26%	28%	
5	\$ 501 - 550	15%	18%	21%	24%	26%	28%	30%	
6	\$ 551 - 600	16%	19%	22%	25%	28%	30%	32%	
7	\$ 601 - 650	17%	21%	24%	27%	29%	32%	34%	
8	\$ 651 - 700	18%	22%	25%	28%	31%	34%	36%	
9	\$ 701 - 750	19%	23%	27%	30%	33%	36%	38%	
10	\$ 751 - 800	20%	24%	28%	31%	35%	38%	40%	
11	\$ 801 - 850	21%	25%	29%	33%	36%	40%	42%	
12	\$ 851 - 900	22%	27%	31%	34%	38%	41%	44%	
13	\$ 901 - 950	23%	28%	32%	36%	40%	43%	46%	
14	\$ 951 - 1000	24%	29%	34%	38%	41%	45%	48%	
15	\$1001 and over	25%	30%	35%	39%	43%	47%	50%	

16 3. In applying the guidelines, the director shall
17 consider the following criteria:

18 (1) All earnings, income, and resources of the
19 responsible parent, including real and personal
20 property.

21 (2) The basic living needs of the responsible
22 person.

23 (3) The financial needs of the dependent child
24 or children to be supported.

25 (4) The amount of public assistance for which
26 the dependent child or children could be eligible.

27 4. In applying the guidelines, the director may
28 consider previous support or maintenance orders which
29 the responsible person is currently paying."

S-5571 FILED
MARCH 27, 1984

BY TOM MANN, JR.

Adopted 3/30 (p. 1186)

SENATE AMENDMENT TO HOUSE FILE 2467

H-6012

1 Amend House File 2467, as passed by the House,
2 as follows:

3 1. By striking everything after the enacting
4 clause and inserting in lieu thereof the following:

5 "Section 1. NEW SECTION. 252C.1 DEFINITIONS.

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

8 1. "Caretaker" means a parent, relative, guardian,
9 or another person who is responsible for paying foster
10 care costs pursuant to chapter 234 or whose needs
11 are included in an assistance payment made pursuant
12 to chapter 239.

13 2. "Court order" means a judgment or order of
14 a court of this state or another state requiring the
15 payment of a set or determinable amount of monetary
16 support.

17 3. "Department" means the department of human
18 services.

19 4. "Dependent child" means a person who meets
20 the eligibility criteria established in chapter 234
21 or 239 and whose support is required by chapter 234,
22 239, 252A, 598, or 675.

23 5. "Director" means the director of the child
24 support recovery unit of the department of human
25 services, or the director's designee.

26 6. "Public assistance" means foster care costs
27 paid by the department pursuant to chapter 234 or
28 assistance provided pursuant to chapter 239.

29 7. "Responsible person" means a parent, relative,
30 guardian, or another person legally liable for the
31 support of a child or a child's caretaker.

32 Sec. 2. NEW SECTION. 252C.2 ASSIGNMENT--CREATION
33 OF SUPPORT DEBT--SUBROGATION.

34 1. By accepting public assistance for or on behalf
35 of a dependent child or a dependent child's caretaker,
36 the recipient is deemed to have made an assignment
37 to the department of any and all right, title, and
38 interest in any support obligation and arrearages
39 owed to or for the child or caretaker up to the amount
40 of public assistance paid for or on behalf of the
41 child or caretaker.

42 2. The payment of public assistance to or for
43 the benefit of a dependent child or a dependent child's
44 caretaker creates a support debt due and owing to
45 the department by the responsible person in an amount
46 equal to the public assistance payment, except that
47 the support debt is limited to the amount of a support
48 obligation established by court order or by the
49 director. If a court order has not been entered,
50 the director may establish a support debt in an amount

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1 determined to be consistent with the debtor's ability
2 to pay and the needs of the dependent child, both
3 as to amounts accrued and accruing, and with the
4 schedule of minimum support guidelines in section
5 252C.10. However, a support debt is not created in
6 favor of the department against a responsible person
7 for the period during which the responsible person
8 is a recipient on the person's own behalf of public
9 assistance for the benefit of the dependent child
10 or the dependent child's caretaker.

11 3. The provision of child support collection or
12 paternity determination services under chapter 252B
13 to an individual, even though the individual is
14 ineligible for public assistance, creates a support
15 debt due and owing to the individual or the
16 individual's child or ward by the responsible person
17 in the amount of a support obligation established
18 by court order or by the director. If a court order
19 has not been entered, the director may establish a
20 support debt in favor of the individual or the
21 individual's child or ward and against the responsible
22 person, in an amount determined to be consistent with
23 the responsible person's ability to pay and the needs
24 of the dependent child, both as to amounts accrued
25 and accruing, and with the schedule of minimum support
26 guidelines in section 252C.10.

27 4. The department is subrogated to the rights
28 of a dependent child or a dependent child's caretaker
29 to bring a court action or to execute an administrative
30 remedy for the collection of support. The director
31 may petition an appropriate court for modification
32 of a court order on the same grounds as a party to
33 the court order can petition the court for
34 modification.

35 Sec. 3. NEW SECTION. 252C.3 NOTICE OF SUPPORT
36 DEBT--ADMINISTRATIVE HEARING, DETERMINATION, AND
37 ORDER.

38 1. In the absence of a court order, the director
39 may issue a notice establishing and demanding payment
40 of an accrued or accruing support debt due and owed
41 to the department or an individual under section
42 252C.2. The notice shall be served upon the
43 responsible person in accordance with the rules of
44 civil procedure. The notice shall include all of
45 the following:

46 a. The amount of any monthly public assistance
47 creating a support debt.

48 b. A computation of the support debt.

49 c. The name of a public assistance recipient and
50 the name of the dependent child or caretaker for whom

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1 the public assistance is paid.

2 d. A demand for immediate payment of the support
3 debt.

4 e. (1) A statement that if the responsible person
5 desires to discuss the amount of support that the
6 responsible person should be required to pay, the
7 responsible person may, within ten days after being
8 served, contact the office of the child support
9 recovery unit which sent the notice and request a
10 negotiation conference.

11 (2) A statement that if a negotiation conference
12 is requested, then the responsible person shall have
13 ten days from the date set for the negotiation
14 conference or twenty days from the date of service
15 of the original notice, whichever is later, to send
16 a request for a hearing to the office of the child
17 support recovery unit which issued the notice.

18 (3) A statement that after the holding of the
19 negotiation conference, the director may issue a new
20 notice and finding of financial responsibility to
21 be sent to the responsible person by regular mail
22 addressed to the responsible person's last known
23 address, or if applicable, to the last known address
24 of the responsible person's attorney.

25 (4) A statement that if the director issues a
26 new notice and finding of financial responsibility,
27 then the responsible person shall have ten days from
28 the date of issuance of the new notice or twenty days
29 from the date of service of the original notice,
30 whichever is later, to send a request for a hearing
31 to the office of the child support recovery unit which
32 issued the notice.

33 f. A statement that if the responsible person
34 objects to all or any part of the notice or finding
35 of financial responsibility and no negotiation
36 conference is requested, then within twenty days of
37 the date of service, the responsible person shall
38 send to the office of the child support recovery unit
39 which issued the notice a written response setting
40 forth any objections and requesting a hearing.

41 g. A statement that if a timely written request
42 for a hearing is received by the office of the child
43 support recovery unit which issued the notice, the
44 responsible person shall have the right to a hearing
45 to be held in district court; and that if no timely
46 written response is received, the director may enter
47 an order in accordance with the notice and finding
48 of financial responsibility.

49 h. A statement that, as soon as the order is
50 entered, the property of the responsible person is

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1 subject to collection action, including but not limited
2 to wage withholding, garnishment, attachment of a
3 lien, and execution.

4 i. A statement that the responsible person shall
5 notify the director of any change of address or
6 employment.

7 j. A statement that if the responsible person
8 has any questions, the responsible person should
9 telephone or visit an office of the child support
10 recovery unit or consult an attorney.

11 k. Such other information as the director finds
12 appropriate.

13 2. The time limitations for requesting a hearing
14 in subsection 1 may be extended by the director.

15 3. If a timely written response setting forth
16 objections and requesting a hearing is received by
17 the appropriate office of the child support recovery
18 unit, a hearing shall be held in district court.

19 4. If timely written response and request for
20 hearing is not received by the appropriate office
21 of the child support recovery unit, the director may
22 enter an order in accordance with the notice, and
23 shall specify all of the following:

24 a. The amount of monthly support to be paid, with
25 directions as to the manner of payment.

26 b. The amount of the support debt accrued and
27 accruing in favor of the department.

28 c. The name of the custodial parent or agency
29 having custody of the dependent child and the name
30 and birthdate of the dependent child for whom support
31 is to be paid.

32 d. That the property of the responsible person
33 is subject to collection action, including but not
34 limited to wage withholding, garnishment, attachment
35 of a lien, and execution.

36 5. The responsible person shall be sent a copy
37 of the order by regular mail addressed to the
38 responsible person's last known address, or if
39 applicable, to the last known address of the
40 responsible person's attorney. The order is final,
41 and action by the director to enforce and collect
42 upon the order, including arrearages, may be taken
43 from the date of issuance of the order.

44 Sec. 4. NEW SECTION. 252C.4 CERTIFICATION OF
45 ORDER TO DISTRICT COURT--HEARING--DEFAULT UPON FAILURE
46 TO APPEAR.

47 1. If a timely written request for a hearing is
48 received, the director shall certify the matter to
49 the district court in the county in which the order
50 has been filed, or if no such order has been filed,

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1 then to a district court in the county where the
2 dependent child resides.

3 2. If the matter has not been heard previously
4 by the district court, the certification shall include
5 true copies of the notice and finding of financial
6 responsibility or notice of the support debt accrued
7 and accruing, the return of service, the written
8 objections and request for hearing, and true copies
9 of any administrative orders previously entered.

10 3. The court shall set the matter for hearing
11 and notify the parties of the time and place of
12 hearing.

13 4. The court shall consider the schedule of minimum
14 support guidelines in section 252C.10 in establishing
15 the monthly support payment and the amount of the
16 support debt accrued and accruing.

17 5. If a party fails to appear at the hearing,
18 upon a showing of proper notice to that party, the
19 court may find that party in default and enter an
20 appropriate order.

21 Sec. 5. NEW SECTION. 252C.5 FILING AND DOCKETING
22 OF FINANCIAL RESPONSIBILITY ORDER--ORDER EFFECTIVE
23 AS DISTRICT COURT DECREE. A true copy of any order
24 entered by the director pursuant to this chapter,
25 along with a true copy of the return of service, if
26 applicable, may be filed in the office of the clerk
27 of the district court in the county in which the
28 dependent child resides. Upon filing, the clerk shall
29 enter the order in the judgment docket, and the order
30 shall have all the force, effect, and attributes of
31 a docketed order or decree of the district court.

32 Sec. 6. NEW SECTION. 252C.6 INTEREST ON SUPPORT
33 DEBTS. Interest accrues on support debts at the rate
34 provided in section 535.3 for court judgments. The
35 director may collect the accrued interest but is not
36 required to maintain interest balance accounts. The
37 department may waive payment of the interest if the
38 waiver will facilitate the collection of the support
39 debt.

40 Sec. 7. NEW SECTION. 252C.7 EMPLOYERS--
41 ASSIGNMENTS OF EARNINGS. In addition to other remedies
42 provided by law for the enforcement of a support
43 obligation, the employer of a responsible person owing
44 a support debt shall honor a duly executed assignment
45 of current or future earnings presented by the director
46 to the employer as a plan to satisfy or retire the
47 support debt. The assignment is effective until
48 released in writing by the director. The employer
49 is entitled to receive from the debtor a fee of one
50 dollar for each remittance under the assignment.

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1 Payment of moneys pursuant to the assignment of
 2 earnings is a full acquittance under a contract of
 3 employment. The director is released from liability
 4 for improper receipt of moneys under an assignment
 5 of earnings upon the return of the moneys.
 6 Sec. 8. NEW SECTION. 252C.8 PREVENTION OF
 7 TRANSFER OF ASSETS OR COMPLIANCE WITH ORDER. If the
 8 director reasonably believes that the responsible
 9 person is not a resident of this state, is about to
 10 move from this state, or is concealing the responsible
 11 person's whereabouts, or that the responsible person
 12 has removed or is about to remove, secrete, waste,
 13 or otherwise dispose of property which could be made
 14 subject to collection procedures to satisfy the support
 15 debt, the director may petition the district court
 16 for a temporary restraining order barring the removal,
 17 secretion, waste, or disposal. However, if the
 18 responsible person furnishes a bond satisfactory to
 19 the court, the temporary restraining order shall be
 20 vacated.

21 Sec. 9. NEW SECTION. 252C.9 COURT ORDER PREVAILS.
 22 If an order issued pursuant to this chapter conflicts
 23 with an order of a court, to the extent of the conflict
 24 the court order prevails.

25 Sec. 10. NEW SECTION. 252C.10 SCHEDULE OF MINIMUM
 26 SUPPORT GUIDELINES.

27 1. As used in this section, "monthly net income"
 28 means gross monthly income minus payroll taxes as
 29 defined in section 85.61, subsection 10, mandatory
 30 pension contributions, health insurance or health
 31 benefit payments for dependents, and deductions not
 32 to exceed twenty-five dollars per month for a
 33 responsible person's health insurance, health benefit
 34 payments, or medical expenses.

35 2. In ordering a responsible person to pay
 36 reasonable and necessary child support, the director
 37 shall set the monthly amount of the child support
 38 by multiplying the responsible person's monthly net
 39 income by the percentage indicated in the following
 40 guidelines, unless the director makes express findings
 41 of fact as to the reason for deviating from the
 42 guidelines. However, the director may set the child
 43 support above the amount in the guidelines without
 44 making express findings of fact if the parties ex-
 45 pressly agree to the amount of the child support.

Monthly Net Income of Re- sponsible Person	1	2	3	4	5	6	7 or more
\$ 400 and below	Order based on the ability of the respon- sible person to provide support at these						

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1		income levels, or at higher levels, if the						
2		responsible person has the ability to earn						
3		more.						
4	\$ 401 - 500	14%	17%	20%	22%	24%	26%	28%
5	\$ 501 - 550	15%	18%	21%	24%	26%	28%	30%
6	\$ 551 - 600	16%	19%	22%	25%	28%	30%	32%
7	\$ 601 - 650	17%	21%	24%	27%	29%	32%	34%
8	\$ 651 - 700	18%	22%	25%	28%	31%	34%	36%
9	\$ 701 - 750	19%	23%	27%	30%	33%	36%	38%
10	\$ 751 - 800	20%	24%	28%	31%	35%	38%	40%
11	\$ 801 - 850	21%	25%	29%	33%	36%	40%	42%
12	\$ 851 - 900	22%	27%	31%	34%	38%	41%	44%
13	\$ 901 - 950	23%	28%	32%	36%	40%	43%	46%
14	\$ 951 - 1000	24%	29%	34%	38%	41%	45%	48%
15	\$1001 and over	25%	30%	35%	39%	43%	47%	50%

16 3. In applying the guidelines, the director shall
17 consider the following criteria:

18 (1) All earnings, income, and resources of the
19 responsible parent, including real and personal
20 property.

21 (2) The basic living needs of the responsible
22 person.

23 (3) The financial needs of the dependent child
24 or children to be supported.

25 (4) The amount of public assistance for which
26 the dependent child or children could be eligible.

27 4. In applying the guidelines, the director may
28 consider previous support or maintenance orders which
29 the responsible person is currently paying."

H-6012 FILED MARCH 30, 1984

RECEIVED FROM THE SENATE

House concurred 4/3 (p. 1608)

HOUSE FILE 2467

AN ACT

RELATING TO ADMINISTRATIVE PROCEDURES FOR THE ESTABLISHMENT,
DETERMINATION, AND COLLECTION OF CERTAIN CHILD SUPPORT
DEBTS.

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

Section 1. NEW SECTION. 252C.1 DEFINITIONS. As used
in this chapter, unless the context otherwise requires:

1. "Caretaker" means a parent, relative, guardian, or
another person who is responsible for paying foster care costs
pursuant to chapter 234 or whose needs are included in an
assistance payment made pursuant to chapter 239.

2. "Court order" means a judgment or order of a court
of this state or another state requiring the payment of a
set or determinable amount of monetary support.

3. "Department" means the department of human services.

4. "Dependent child" means a person who meets the
eligibility criteria established in chapter 234 or 239 and
whose support is required by chapter 234, 239, 252A, 598,
or 675.

5. "Director" means the director of the child support
recovery unit of the department of human services, or the
director's designee.

6. "Public assistance" means foster care costs paid by
the department pursuant to chapter 234 or assistance provided
pursuant to chapter 239.

7. "Responsible person" means a parent, relative, guardian,
or another person legally liable for the support of a child
or a child's caretaker.

Sec. 2. NEW SECTION. 252C.2 ASSIGNMENT--CREATION OF
SUPPORT DEBT--SUBROGATION.

1. By accepting public assistance for or on behalf of
a dependent child or a dependent child's caretaker, the
recipient is deemed to have made an assignment to the
department of any and all right, title, and interest in any
support obligation and arrearages owed to or for the child
or caretaker up to the amount of public assistance paid for
or on behalf of the child or caretaker.

2. The payment of public assistance to or for the benefit
of a dependent child or a dependent child's caretaker creates
a support debt due and owing to the department by the
responsible person in an amount equal to the public assistance
payment, except that the support debt is limited to the amount
of a support obligation established by court order or by the
director. If a court order has not been entered, the director
may establish a support debt in an amount determined to be
consistent with the debtor's ability to pay and the needs
of the dependent child, both as to amounts accrued and
accruing, and with the schedule of minimum support guidelines
in section 252C.10. However, a support debt is not created
in favor of the department against a responsible person for
the period during which the responsible person is a recipient
on the person's own behalf of public assistance for the benefit
of the dependent child or the dependent child's caretaker.

3. The provision of child support collection or paternity
determination services under chapter 252B to an individual,
even though the individual is ineligible for public assistance,
creates a support debt due and owing to the individual or
the individual's child or ward by the responsible person in
the amount of a support obligation established by court order
or by the director. If a court order has not been entered,
the director may establish a support debt in favor of the
individual or the individual's child or ward and against the
responsible person, in an amount determined to be consistent
with the responsible person's ability to pay and the needs
of the dependent child, both as to amounts accrued and
accruing, and with the schedule of minimum support guidelines
in section 252C.10.

4. The department is subrogated to the rights of a dependent child or a dependent child's caretaker to bring a court action or to execute an administrative remedy for the collection of support. The director may petition an appropriate court for modification of a court order on the same grounds as a party to the court order can petition the court for modification.

Sec. 3. NEW SECTION. 252C.3 NOTICE OF SUPPORT DEBT--ADMINISTRATIVE HEARING, DETERMINATION, AND ORDER.

1. In the absence of a court order, the director may issue a notice establishing and demanding payment of an accrued or accruing support debt due and owed to the department or an individual under section 252C.2. The notice shall be served upon the responsible person in accordance with the rules of civil procedure. The notice shall include all of the following:

- a. The amount of any monthly public assistance creating a support debt.
- b. A computation of the support debt.
- c. The name of a public assistance recipient and the name of the dependent child or caretaker for whom the public assistance is paid.
- d. A demand for immediate payment of the support debt.
- e. (1) A statement that if the responsible person desires to discuss the amount of support that the responsible person should be required to pay, the responsible person may, within ten days after being served, contact the office of the child support recovery unit which sent the notice and request a negotiation conference.
- (2) A statement that if a negotiation conference is requested, then the responsible person shall have ten days from the date set for the negotiation conference or twenty days from the date of service of the original notice, whichever is later, to send a request for a hearing to the office of the child support recovery unit which issued the notice.

(3) A statement that after the holding of the negotiation conference, the director may issue a new notice and finding of financial responsibility to be sent to the responsible person by regular mail addressed to the responsible person's last known address, or if applicable, to the last known address of the responsible person's attorney.

(4) A statement that if the director issues a new notice and finding of financial responsibility, then the responsible person shall have ten days from the date of issuance of the new notice or twenty days from the date of service of the original notice, whichever is later, to send a request for a hearing to the office of the child support recovery unit which issued the notice.

f. A statement that if the responsible person objects to all or any part of the notice or finding of financial responsibility and no negotiation conference is requested, then within twenty days of the date of service, the responsible person shall send to the office of the child support recovery unit which issued the notice a written response setting forth any objections and requesting a hearing.

g. A statement that if a timely written request for a hearing is received by the office of the child support recovery unit which issued the notice, the responsible person shall have the right to a hearing to be held in district court; and that if no timely written response is received, the director may enter an order in accordance with the notice and finding of financial responsibility.

h. A statement that, as soon as the order is entered, the property of the responsible person is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and execution.

i. A statement that the responsible person shall notify the director of any change of address or employment.

j. A statement that if the responsible person has any questions, the responsible person should telephone or visit an office of the child support recovery unit or consult an attorney.

k. Such other information as the director finds appropriate.

2. The time limitations for requesting a hearing in subsection 1 may be extended by the director.

3. If a timely written response setting forth objections and requesting a hearing is received by the appropriate office of the child support recovery unit, a hearing shall be held in district court.

4. If timely written response and request for hearing is not received by the appropriate office of the child support recovery unit, the director may enter an order in accordance with the notice, and shall specify all of the following:

a. The amount of monthly support to be paid, with directions as to the manner of payment.

b. The amount of the support debt accrued and accruing in favor of the department.

c. The name of the custodial parent or agency having custody of the dependent child and the name and birth date of the dependent child for whom support is to be paid.

d. 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 execution.

5. The responsible person shall be sent a copy of the order by regular mail addressed to the responsible person's last known address, or if applicable, to the last known address of the responsible person's attorney. The order is final, and action by the director to enforce and collect upon the order, including arrearages, may be taken from the date of issuance of the order.

Sec. 4. NEW SECTION. 252C.4 CERTIFICATION OF ORDER TO DISTRICT COURT--HEARING--DEFAULT UPON FAILURE TO APPEAR.

1. If a timely written request for a hearing is received, the director shall certify the matter to the district court in the county in which the order has been filed, or if no such order has been filed, then to a district court in the county where the dependent child resides.

2. If the matter has not been heard previously by the district court, the certification shall include true copies of the notice and finding of financial responsibility or notice of the support debt accrued and accruing, the return of service, the written objections and request for hearing, and true copies of any administrative orders previously entered.

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

4. The court shall consider the schedule of minimum support guidelines in section 252C.10 in establishing the monthly support payment and the amount of the support debt accrued and accruing.

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

Sec. 5. NEW SECTION. 252C.5 FILING AND DOCKETING OF FINANCIAL RESPONSIBILITY ORDER--ORDER EFFECTIVE AS DISTRICT COURT DECREE. A true copy of any order entered by the director pursuant to this chapter, along with a true copy of the return of service, if applicable, may be filed in the office of the clerk of the district court in the county in which the dependent child resides. Upon filing, the clerk shall enter the order in the judgment docket, and the order shall have all the force, effect, and attributes of a docketed order or decree of the district court.

Sec. 6. NEW SECTION. 252C.6 INTEREST ON SUPPORT DEBTS. Interest accrues on support debts at the rate provided in section 535.3 for court judgments. The director may collect the accrued interest but is not required to maintain interest balance accounts. The department may waive payment of the interest if the waiver will facilitate the collection of the support debt.

Sec. 7. NEW SECTION. 252C.7 EMPLOYERS--ASSIGNMENTS OF EARNINGS. In addition to other remedies provided by law for the enforcement of a support obligation, the employer of a

responsible person owing a support debt shall honor a duly executed assignment of current or future earnings presented by the director to the employer as a plan to satisfy or retire the support debt. The assignment is effective until released in writing by the director. The employer is entitled to receive from the debtor a fee of one dollar for each remittance under the assignment. Payment of moneys pursuant to the assignment of earnings is a full acquittance under a contract of employment. The director is released from liability for improper receipt of moneys under an assignment of earnings upon the return of the moneys.

Sec. 8. NEW SECTION. 252C.8 PREVENTION OF TRANSFER OF ASSETS OR COMPLIANCE WITH ORDER. If the director reasonably believes that the responsible person is not a resident of this state, is about to move from this state, or is concealing the responsible person's whereabouts, or that the responsible person has removed or is about to remove, secrete, waste, or otherwise dispose of property which could be made subject to collection procedures to satisfy the support debt, the director may petition the district court for a temporary restraining order barring the removal, secretion, waste, or disposal. However, if the responsible person furnishes a bond satisfactory to the court, the temporary restraining order shall be vacated.

Sec. 9. NEW SECTION. 252C.9 COURT ORDER PREVAILS. If an order issued pursuant to this chapter conflicts with an order of a court, to the extent of the conflict the court order prevails.

Sec. 10. NEW SECTION. 252C.10 SCHEDULE OF MINIMUM SUPPORT GUIDELINES.

1. As used in this section, "monthly net income" means gross monthly income minus payroll taxes as defined in section 85.61, subsection 10, mandatory pension contributions, health insurance or health benefit payments for dependents, and deductions not to exceed twenty-five dollars per month for a responsible person's health insurance, health benefit payments, or medical expenses.

2. In ordering a responsible person to pay reasonable and necessary child support, the director shall set the monthly amount of the child support by multiplying the responsible person's monthly net income by the percentage indicated in the following guidelines, unless the director makes express findings of fact as to the reason for deviating from the guidelines. However, the director may set the child support above the amount in the guidelines without making express findings of fact if the parties expressly agree to the amount of the child support.

Monthly Net Income of Re- <u>sponsible Person</u> \$ 400 and below	<u>Number of Dependent Children</u>						
	1	2	3	4	5	6	7 or more
	Order based on the ability of the responsible person to provide support at these income levels, or at higher levels, if the responsible person has the ability to earn more.						
\$ 401 - 500	14%	17%	20%	22%	24%	26%	28%
\$ 501 - 550	15%	18%	21%	24%	26%	28%	30%
\$ 551 - 600	16%	19%	22%	25%	28%	30%	32%
\$ 601 - 650	17%	21%	24%	27%	29%	32%	34%
\$ 651 - 700	18%	22%	25%	28%	31%	34%	36%
\$ 701 - 750	19%	23%	27%	30%	33%	36%	38%
\$ 751 - 800	20%	24%	28%	31%	35%	38%	40%
\$ 801 - 850	21%	25%	29%	33%	36%	40%	42%
\$ 851 - 900	22%	27%	31%	34%	38%	41%	44%
\$ 901 - 950	23%	28%	32%	36%	40%	43%	46%
\$ 951 - 1000	24%	29%	34%	38%	41%	45%	48%
\$1001 and over	25%	30%	35%	39%	43%	47%	50%

3. In applying the guidelines, the director shall consider the following criteria:

- (1) All earnings, income, and resources of the responsible parent, including real and personal property.
- (2) The basic living needs of the responsible person.
- (3) The financial needs of the dependent child or children to be supported.

(4) The amount of public assistance for which the dependent child or children could be eligible.

4. In applying the guidelines, the director may consider previous support or maintenance orders which the responsible person is currently paying.

DONALD D. AVENSON
Speaker of the House

CHARLES P. MILLER
President Pro Tempore of the
Senate

I hereby certify that this bill originated in the House and is known as House File 2467, Seventieth General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved _____, 1984

TERRY E. BRANSTAD
Governor

H.F. 2467