

*Revised 2/23 40000 for 2504, Do Jan 3/6 (p. 835)*

FEB 15 1990

HOUSE FILE 2437  
BY COMMITTEE ON HUMAN  
RESOURCES

Place On Calendar

(SUCCESSOR TO HSB 711)

Passed House, Date 2/21/90 (p. 524) Passed Senate, Date 3/20/90 (p. 1203)

Vote: Ayes 96 Nays 1 Vote: Ayes 27 Nays 20

Approved March 30, 1990

A BILL FOR

1 An Act relating to child support payments by providing for  
2 immediate withholding of an obligor's income and providing a  
3 penalty.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

HF 2437

*S-5304 amends all*

1 Section 1. NEW SECTION. 252D.8 PERSONS SUBJECT TO  
2 IMMEDIATE INCOME WITHHOLDING.

3 1. In a support order issued or modified on or after  
4 November 1, 1990, for which services are being provided by the  
5 child support recovery unit, the income of a support obligor  
6 is subject to withholding, on the effective date of the order,  
7 regardless of whether support payments by the obligor are in  
8 arrears. The child support recovery unit may enter an ex  
9 parte order for an immediate withholding of income or may  
10 directly implement immediate withholding of income if  
11 authorizing language is contained in the court order. The  
12 income of the obligor is subject to such automatic withholding  
13 unless one of the following occurs:

14 a. One of the parties demonstrates and the court or child  
15 support recovery unit finds there is good cause not to require  
16 immediate withholding.

17 b. A written agreement is reached between both parties  
18 which provides for an alternative arrangement.

19 2. If the support payments have been assigned to the  
20 department of human services pursuant to chapter 234 or 239,  
21 or a comparable statute of another jurisdiction, the  
22 department shall be considered a party to the support order,  
23 and a written agreement pursuant to this section to waive  
24 immediate withholding is void unless approved by the child  
25 support recovery unit. Any existing agreement is void at the  
26 time an assignment of support to the state is made.

27 3. For an order not requiring immediate withholding,  
28 income of an obligor is subject to immediate withholding,  
29 without regard to whether there is an arrearage, on the  
30 earliest of the following:

31 a. The date the obligor requests that the withholding  
32 begin.

33 b. The date the custodial parent or party to the  
34 proceeding requests that the withholding begin, if the child  
35 support recovery unit approves the request.

1     Sec. 2. NEW SECTION. 252D.9   SUMS SUBJECT TO IMMEDIATE  
2   WITHHOLDING.

3     Specified sums shall be deducted from the obligor's  
4   earnings, trust income, or other income sufficient to pay the  
5   support obligation. The amount withheld pursuant to an  
6   assignment of income shall not exceed the amount specified in  
7   15 U.S.C. § 1673(b).

8     Sec. 3. NEW SECTION. 252D.10   NOTICE OF ASSIGNMENT.

9     The notice requirements of section 252D.3 do not apply to  
10  this subchapter. An order for support entered after November  
11  1, 1990, shall contain the notice of immediate income  
12  withholding. However, this subchapter is sufficient notice  
13  for implementation of immediate income withholding without any  
14  further notice.

15    Sec. 4. NEW SECTION. 252D.11   MOTION TO QUASH.

16    1. Grounds for contesting a withholding order under this  
17  subchapter are any of the following:

18    a. A mistake of fact, which for purposes of this section  
19  means an error in the amount of current or overdue support or  
20  the identity of the alleged obligor.

21    b. The conditions for exception to immediate income  
22  withholding as defined under section 252D.8 existed at the  
23  time of implementation of the withholding.

24    2. The clerk of the district court shall schedule a  
25  hearing on the motion to quash for a time not later than seven  
26  days after the filing of the motion to quash and the notice of  
27  the motion to quash. The clerk shall mail to the parties  
28  copies of the motion to quash, the notice of the motion to  
29  quash, and the order scheduling the hearing.

30    3. The payor shall withhold and transmit the amount  
31  specified in the order of assignment to the clerk of the  
32  district court or the collection services center, as  
33  appropriate, until the notice that a motion to quash has been  
34  granted is received.

35    Sec. 5. NEW SECTION. 252D.12   NOTICE TO EMPLOYER OR

1 INCOME PAYOR.

2 A notice of immediate income withholding shall be sent to  
3 the employer, trustee, or other payor by certified mail. The  
4 assignment of income is binding on an existing or future  
5 employer, trustee, or other payor ten days after the receipt  
6 of the notice by certified mail.

7 Sec. 6. NEW SECTION. 252D.13 PRIORITY.

8 The assignment of income has priority over a garnishment or  
9 an assignment for a purpose other than support of the  
10 dependents in the court order being enforced.

11 Sec. 7. NEW SECTION. 252D.14 MODIFICATION OR REVOCATION  
12 OF IMMEDIATE INCOME WITHHOLDING.

13 The child support recovery unit or the district court, upon  
14 the application of any party, may modify the assignment of  
15 income by ex parte order if current child support has  
16 terminated, or may revoke the assignment of income upon the  
17 termination of parental rights, emancipation, death, majority  
18 of the child, or upon change of custody.

19 Sec. 8. NEW SECTION. 252D.18 DUTIES OF THE PAYOR --  
20 LIABILITY.

21 1. The employer, trustee, or other payor who receives an  
22 order of assignment by certified mail pursuant to section  
23 252D.1, subsection 3, or subchapter II, shall deliver, on the  
24 next working day, a copy of the order to the person named in  
25 the order. The payor may deduct not more than two dollars  
26 from each payment from the employee's wages as a reimbursement  
27 for the payor's costs relating to the assignment. The payor's  
28 compliance with the order of assignment satisfies the payor's  
29 obligation to the person for the amount of income withheld and  
30 transmitted to the clerk of the district court.

31 2. An employer who willfully discharges an employee or  
32 refuses to hire a person because of the entry of an order of  
33 assignment under this chapter is guilty of a simple  
34 misdemeanor.

35 3. An employer, trustee, or other payor who receives an

1 order of assignment pursuant to section 252D.1, subsection 2,  
2 or subchapter II, is liable for the amount which the employer,  
3 trustee, or other payor willfully fails to withhold from  
4 amounts due the person named in the order, together with  
5 costs, interest, and reasonable attorney fees related to the  
6 collection of the amounts due from the employer, trustee, or  
7 other payor.

8 Sec. 9. NEW SECTION. 252D.19 OTHER REMEDIES.

9 The remedies provided in this chapter do not exclude the  
10 use of other civil or criminal remedies in enforcing support  
11 obligations.

12 Sec. 10. NEW SECTION. 252D.20 ADMINISTRATION OF INCOME  
13 WITHHOLDING PROCEDURES.

14 The child support recovery unit is designated as the entity  
15 of the state to administer income withholding in accordance  
16 with the procedures specified for keeping adequate records to  
17 document, track, and monitor support payments on cases subject  
18 to Title IV-D of the federal Social Security Act. The clerks  
19 of the district court are designated as the entities for  
20 administering income withholding on cases which are not  
21 subject to Title IV-D.

22 Sec. 11. NEW SECTION. 252D.21 PENALTY FOR  
23 MISREPRESENTATION.

24 A person who knowingly makes a false statement or  
25 representation of a material fact or knowingly fails to  
26 disclose a material fact in order to secure an assignment of  
27 income against another person and to receive support payments  
28 or additional support payments pursuant to this chapter, is  
29 guilty, upon conviction, of a serious misdemeanor.

30 Sec. 12. NEW SECTION. 252D.22 RULES.

31 The department shall adopt the administrative rules  
32 necessary to implement the provisions of this chapter as they  
33 pertain to the operations of the child support recovery unit.

34 Sec. 13. Section 598.22, Code 1989, is amended by adding  
35 the following new unnumbered paragraph after unnumbered

1 paragraph 2:

2 NEW UNNUMBERED PARAGRAPH. An assignment of periodic income  
3 may also be entered under the terms and conditions of chapter  
4 252D.

5 Sec. 14. Sections 252D.4 through 252D.7, Code 1989, are  
6 repealed.

7 Sec. 15. CODIFICATION.

8 1. The Code editor shall entitle chapter 252D as "Child  
9 Support Payments -- Assignment of Income and Immediate Income  
10 Withholding."

11 2. The Code editor shall codify sections 252D.1 through  
12 252D.3 as subchapter I, entitled "Delinquent Support Payments  
13 -- Assignment of Income."

14 3. The Code editor shall codify new sections 252D.8  
15 through 252D.14 as subchapter II entitled "Immediate Income  
16 Withholding."

17 4. The Code editor shall codify sections 252D.18 through  
18 252D.22 as subchapter III, entitled "General Provisions."

19 5. If necessary or appropriate, the Code editor may codify  
20 and entitle this Act in a different manner than prescribed by  
21 this section.

22 EXPLANATION

23 This bill amends chapter 252D of the Code relating to  
24 delinquent child support payments and assignment of income by  
25 providing for immediate withholding of an obligor's income if  
26 services are being provided by the child support recovery unit  
27 of the department of human services, without regard to the  
28 obligor's record of support payments made.

29  
30  
31  
32  
33  
34  
35

## HOUSE FILE 2437

S-5304

1 Amend House File 2437 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. Section 252D.1, subsection 1, Code  
5 1989, is amended to read as follows:

6 1. As used in this chapter subchapter, subchapter  
7 II, and subchapter III, unless the context otherwise  
8 requires, "support" or "support payments" means any  
9 amount which the court may require a person to pay for  
10 the benefit of a child under a temporary order or a  
11 final judgment or decree, and may include child  
12 support, maintenance, and, if contained in a child  
13 support order, spousal support, and any other term  
14 used to describe these obligations. These obligations  
15 may include support for a child who is between the  
16 ages of eighteen and twenty-two years and who is  
17 regularly attending an accredited school in pursuance  
18 of a course of study leading to a high school diploma  
19 or its equivalent, or regularly attending a course of  
20 vocational technical training either as a part of a  
21 regular school program or under special arrangements  
22 adapted to the individual person's needs, or is, in  
23 good faith, a full-time student in a college,  
24 university, or area school, or has been accepted for  
25 admission to a college, university, or area school and  
26 the next regular term has not yet begun; and may  
27 include support for a child of any age who is  
28 dependent on the parties to the dissolution  
29 proceedings because of physical or mental disability.

30 Sec. 2. NEW SECTION. 252D.8 PERSONS SUBJECT TO  
31 IMMEDIATE INCOME WITHHOLDING.

32 1. In a support order issued or modified on or  
33 after November 1, 1990, for which services are being  
34 provided by the child support recovery unit, the  
35 income of a support obligor is subject to immediate  
36 withholding, on the effective date of the order,  
37 regardless of whether support payments by the obligor  
38 are in arrears. The child support recovery unit may  
39 enter an ex parte order for an immediate withholding  
40 of income or may directly implement immediate  
41 withholding of income if authorizing language is  
42 contained in the court order. The income of the  
43 obligor is subject to immediate withholding unless one  
44 of the following occurs:

45 a. One of the parties demonstrates and the court  
46 or child support recovery unit finds there is good  
47 cause not to require immediate withholding.

48 b. A written agreement is reached between both  
49 parties which provides for an alternative arrangement.

50 2. If the support payments have been assigned to

6-5304

Page --2

1 the department of human services pursuant to chapter  
2 234 or 239, or a comparable statute of another  
3 jurisdiction, the department shall be considered a  
4 party to the support order, and a written agreement  
5 pursuant to this section to waive immediate  
6 withholding is void unless approved by the child  
7 support recovery unit. Any existing agreement is void  
8 at the time an assignment of support to the state is  
9 made.

10 3. If a support order does not require immediate  
11 income withholding, income of an obligor is subject to  
12 immediate withholding, without regard to whether there  
13 is an arrearage, on the earliest of the following:

14 a. The date the obligor requests that the  
15 immediate income withholding begin.

16 b. The date the custodial parent or party to the  
17 proceeding requests that the immediate income  
18 withholding begin, if the child support recovery unit  
19 approves the request.

20 Sec. 3. NEW SECTION. 252D.9 SUMS SUBJECT TO  
21 IMMEDIATE INCOME WITHHOLDING.

22 Specified sums shall be withheld from the obligor's  
23 earnings, trust income, or other income sufficient to  
24 pay the support obligation and shall not exceed the  
25 amount specified in 15 U.S.C. § 1673(b).

26 Sec. 4. NEW SECTION. 252D.10 NOTICE OF IMMEDIATE  
27 INCOME WITHHOLDING.

28 An order for support entered after November 1,  
29 1990, shall contain the notice of immediate income  
30 withholding. However, this subchapter is sufficient  
31 notice for implementation of immediate income  
32 withholding without any further notice.

33 Sec. 5. NEW SECTION. 252D.11 MOTION TO QUASH.

34 1. Grounds for contesting a withholding order  
35 under this subchapter are any of the following:

36 a. A mistake of fact, which for purposes of this  
37 section means an error in the amount of current or  
38 overdue support or the identity of the alleged  
39 obligor.

40 b. The conditions for exception to immediate  
41 income withholding as defined under section 252D.8  
42 existed at the time of implementation of the  
43 withholding.

44 2. The clerk of the district court shall schedule  
45 a hearing on the motion to quash for a time not later  
46 than seven days after the filing of the motion to  
47 quash and the notice of the motion to quash. The  
48 clerk shall mail to the parties copies of the motion  
49 to quash, the notice of the motion to quash, and the  
50 order scheduling the hearing.



S-5304

Page 4

1 to subchapter II, is liable for the amount which the  
2 employer, trustee, or other payor willfully fails to  
3 withhold from amounts due the person named in the  
4 order, together with costs, interest, and reasonable  
5 attorney fees related to the collection of the amounts  
6 due from the employer, trustee, or other payor.

7 Sec. 10. NEW SECTION. 252D.19 OTHER REMEDIES.

8 The remedies provided in this chapter do not  
9 exclude the use of other civil or criminal remedies in  
10 enforcing support obligations.

11 Sec. 11. NEW SECTION. 252D.20 ADMINISTRATION OF  
12 INCOME WITHHOLDING PROCEDURES.

13 The child support recovery unit is designated as  
14 the entity of the state to administer income  
15 withholding or assignment in accordance with the  
16 procedures specified for keeping adequate records to  
17 document, track, and monitor support payments on cases  
18 subject to Title IV-D of the federal Social Security  
19 Act. The clerks of the district court are designated  
20 as the entities for administering income withholding  
21 or assignment on cases which are not subject to Title  
22 IV-D.

23 Sec. 12. NEW SECTION. 252D.21 PENALTY FOR  
24 MISREPRESENTATION.

25 A person who knowingly makes a false statement or  
26 representation of a material fact or knowingly fails  
27 to disclose a material fact in order to secure an  
28 order of assignment or a withholding order against  
29 another person and to receive support payments or  
30 additional support payments pursuant to this chapter,  
31 is guilty, upon conviction, of a serious misdemeanor.

32 Sec. 13. NEW SECTION. 252D.22 RULES.

33 The department shall adopt the administrative rules  
34 necessary to implement the provisions of this chapter  
35 as they pertain to the operations of the child support  
36 recovery unit.

37 Sec. 14. Section 598.22, Code 1989, is amended by  
38 adding the following new unnumbered paragraph after  
39 unnumbered paragraph 2:

40 NEW UNNUMBERED PARAGRAPH. An order of assignment  
41 or withholding of periodic income may also be entered  
42 under the terms and conditions of chapter 252D.

43 Sec. 15. Sections 252D.4 through 252D.7, Code  
44 1989, are repealed.

45 Sec. 16. CODIFICATION.

46 1. The Code editor shall entitle chapter 252D as  
47 "Child Support Payments -- Assignment of Income and  
48 Immediate Income Withholding."

49 2. The Code editor shall codify sections 252D.1  
50 through 252D.3 as subchapter I, entitled "Delinquent

S-5304

Page 3

1 3. The payor shall withhold and transmit the  
2 amount specified in the withholding order to the clerk  
3 of the district court or the collection services  
4 center, as appropriate, until the notice that a motion  
5 to quash has been granted is received.

6 Sec. 6. NEW SECTION. 252D.12 NOTICE TO EMPLOYER  
7 OR INCOME PAYOR.

8 A notice of immediate income withholding shall be  
9 sent to the employer, trustee, or other payor by  
10 certified mail. The withholding order is binding on  
11 an existing or future employer, trustee, or other  
12 payor ten days after the receipt of the notice by  
13 certified mail.

14 Sec. 7. NEW SECTION. 252D.13 PRIORITY.

15 The withholding order has priority over a  
16 garnishment or an assignment for a purpose other than  
17 support of the dependents in the court order being  
18 enforced.

19 Sec. 8. NEW SECTION. 252D.14 MODIFICATION OR  
20 REVOCATION OF IMMEDIATE INCOME WITHHOLDING.

21 The child support recovery unit or the district  
22 court, upon the application of any party, may modify  
23 the withholding order by ex parte order if current  
24 child support has terminated, or may revoke the  
25 withholding order upon the termination of parental  
26 rights, emancipation, death, majority of the child, or  
27 upon change of custody.

28 Sec. 9. NEW SECTION. 252D.18 DUTIES OF THE PAYOR  
29 -- LIABILITY.

30 1. The employer, trustee, or other payor who  
31 receives an order of assignment by certified mail  
32 pursuant to section 252D.1, subsection 3, or a  
33 withholding order pursuant to subchapter II, shall  
34 deliver, on the next working day, a copy of the order  
35 to the person named in the order. The payor may  
36 deduct not more than two dollars from each payment  
37 from the employee's wages as a reimbursement for the  
38 payor's costs relating to the order of assignment or  
39 to the withholding order. The payor's compliance with  
40 the order of assignment or the withholding order  
41 satisfies the payor's obligation to the person for the  
42 amount of income withheld and transmitted to the clerk  
43 of the district court.

44 2. An employer who willfully discharges an  
45 employee or refuses to hire a person because of the  
46 entry of an order of assignment or a withholding order  
47 under this chapter is guilty of a simple misdemeanor.

48 3. An employer, trustee, or other payor who  
49 receives an order of assignment pursuant to section  
50 252D.1, subsection 2, or a withholding order pursuant

S-5304

Page 5

1 Support Payments -- Assignment of Income."  
2 3. The Code editor shall codify new sections  
3 252D.8 through 252D.14 as subchapter II entitled  
4 "Immediate Income Withholding."  
5 4. The Code editor shall codify sections 252D.18  
6 through 252D.22 as subchapter III, entitled "General  
7 Provisions."  
8 5. If necessary or appropriate, the Code editor  
9 may codify and entitle this Act in a different manner  
10 than prescribed by this section."

By COMMITTEE ON HUMAN RESOURCES  
BEVERLY A. HANNON, Chairperson

S-5304 FILED MARCH 1, 1990

*File 3/20 (p. 1202)*

## HOUSE FILE 2437

S-5337

1 Amend amendment, S-5304, to House File 2437, as  
2 follows:  
3 1. Page 2, line 28, by inserting after the word  
4 "entered" the following: "or modified on or".  
5 2. Page 2, by striking lines 30 through 32, and  
6 inserting the following: "withholding and no further  
7 notice is required. However, if a support order does  
8 not contain notification of immediate withholding,  
9 notification shall be provided by sending to the  
10 obligor by regular mail a copy of the withholding  
11 order and a statement of the procedures for filing a  
12 motion to quash."

By CHARLES BRUNER

S-5337 FILED MARCH 2, 1990

*Adopted 3/20 (p. 1202)*

HUMAN RESOURCES

Child Protection

Seaford  
Nielsen  
Howland  
Kistler  
Spencer

HOUSE FILE 2437  
BY (PROPOSED DEPARTMENT OF  
HUMAN SERVICES BILL)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to child support payments by providing for  
2 immediate withholding of an obligor's income and providing a  
3 penalty.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

1 Section 1. NEW SECTION. 252D.8 PERSONS SUBJECT TO  
2 IMMEDIATE INCOME WITHHOLDING.

3 1. In a support order issued or modified on or after  
4 November 1, 1990, for which services are being provided by the  
5 child support recovery unit, the income of a support obligor  
6 is subject to withholding, on the effective date of the order,  
7 regardless of whether support payments by the obligor are in  
8 arrears. The child support recovery unit may enter an ex  
9 parte order for an immediate withholding of income or may  
10 directly implement immediate withholding of income if  
11 authorizing language is contained in the court order. The  
12 income of the obligor is subject to such automatic withholding  
13 unless one of the following occurs:

14 a. One of the parties demonstrates and the court or child  
15 support recovery unit finds there is good cause not to require  
16 immediate withholding.

17 b. A written agreement is reached between both parties  
18 which provides for an alternative arrangement.

19 2. If the support payments have been assigned to the  
20 department of human services pursuant to chapter 234 or 239,  
21 or a comparable statute of another jurisdiction, the  
22 department shall be considered a party to the support order,  
23 and a written agreement pursuant to this section to waive  
24 immediate withholding is void unless approved by the child  
25 support recovery unit. Any existing agreement is void at the  
26 time an assignment of support to the state is made.

27 3. For an order not requiring immediate withholding,  
28 income of an obligor is subject to immediate withholding,  
29 without regard to whether there is an arrearage, on the  
30 earliest of the following:

31 a. The date the obligor requests that the withholding  
32 begin.

33 b. The date the custodial parent or party to the  
34 proceeding requests that the withholding begin, if the child  
35 support recovery unit approves the request.

1     Sec. 2. NEW SECTION. 252D.9   SUMS SUBJECT TO IMMEDIATE  
2   WITHHOLDING.

3     Specified sums shall be deducted from the obligor's  
4   earnings, trust income, or other income sufficient to pay the  
5   support obligation. The amount withheld pursuant to an  
6   assignment of income shall not exceed the amount specified in  
7   15 U.S.C. § 1673(b).

8     Sec. 3. NEW SECTION. 252D.10   NOTICE OF ASSIGNMENT.

9     The notice requirements of section 252D.3 do not apply to  
10  this subchapter. An order for support entered after November  
11  1, 1990, shall contain the notice of immediate income  
12  withholding. However, this subchapter is sufficient notice  
13  for implementation of immediate income withholding without any  
14  further notice.

15  Sec. 4. NEW SECTION. 252D.11   MOTION TO QUASH.

16  1. Grounds for contesting a withholding order under this  
17  subchapter are any of the following:

18  a. A mistake of fact, which for purposes of this section  
19  means an error in the amount of current or overdue support or  
20  the identity of the alleged obligor.

21  b. The conditions for exception to immediate income  
22  withholding as defined under section 252D.8 existed at the  
23  time of implementation of the withholding.

24  2. The clerk of the district court shall schedule a  
25  hearing on the motion to quash for a time not later than seven  
26  days after the filing of the motion to quash and the notice of  
27  the motion to quash. The clerk shall mail to the parties  
28  copies of the motion to quash, the notice of the motion to  
29  quash, and the order scheduling the hearing.

30  3. The payor shall withhold and transmit the amount  
31  specified in the order of assignment to the clerk of the  
32  district court until the notice that a motion to quash has  
33  been granted is received.

34  Sec. 5. NEW SECTION. 252D.12   NOTICE TO EMPLOYER OR  
35  INCOME PAYOR.

1 A notice of immediate income withholding shall be sent to  
2 the employer, trustee, or other payor by certified mail. The  
3 assignment of income is binding on an existing or future  
4 employer, trustee, or other payor ten days after the receipt  
5 of the notice by certified mail.

6 Sec. 6. NEW SECTION. 252D.13 PRIORITY.

7 The assignment of income has priority over a garnishment or  
8 an assignment for a purpose other than support of the  
9 dependents in the court order being enforced.

10 Sec. 7. NEW SECTION. 252D.14 MODIFICATION OR REVOCATION  
11 OF IMMEDIATE INCOME WITHHOLDING.

12 The child support recovery unit or the district court, upon  
13 the application of any party, may modify the assignment of  
14 income by ex parte order if current child support has  
15 terminated, or may revoke the assignment of income upon the  
16 termination of parental rights, emancipation, death, majority  
17 of the child, or upon change of custody.

18 Sec. 8. NEW SECTION. 252D.18 DUTIES OF THE PAYOR --  
19 LIABILITY.

20 1. The employer, trustee, or other payor who receives an  
21 order of assignment by certified mail pursuant to section  
22 252D.1, subsection 3, or subchapter II, shall deliver, on the  
23 next working day, a copy of the order to the person named in  
24 the order. The payor may deduct not more than two dollars  
25 from each payment from the employee's wages as a reimbursement  
26 for the payor's costs relating to the assignment. The payor's  
27 compliance with the order of assignment satisfies the payor's  
28 obligation to the person for the amount of income withheld and  
29 transmitted to the clerk of the district court.

30 2. An employer who willfully discharges an employee or  
31 refuses to hire a person because of the entry of an order of  
32 assignment under this chapter is guilty of a simple  
33 misdemeanor.

34 3. An employer, trustee, or other payor who receives an  
35 order of assignment pursuant to section 252D.1, subsection 2,

1 or subchapter II, is liable for the amount which the employer,  
2 trustee, or other payor willfully fails to withhold from  
3 amounts due the person named in the order, together with  
4 costs, interest, and reasonable attorney fees related to the  
5 collection of the amounts due from the employer, trustee, or  
6 other payor.

7 Sec. 9. NEW SECTION. 252D.19 OTHER REMEDIES.

8 The remedies provided in this chapter do not exclude the  
9 use of other civil or criminal remedies in enforcing support  
10 obligations.

11 Sec. 10. NEW SECTION. 252D.20 ADMINISTRATION OF INCOME  
12 WITHHOLDING PROCEDURES.

13 The child support recovery unit is designated as the entity  
14 of the state to administer income withholding in accordance  
15 with the procedures specified for keeping adequate records to  
16 document, track, and monitor support payments on cases subject  
17 to Title IV-D of the federal Social Security Act. The clerks  
18 of the district court are designated as the entities for  
19 administering income withholding on cases which are not  
20 subject to Title IV-D.

21 Sec. 11. NEW SECTION. 252D.21 PENALTY FOR  
22 MISREPRESENTATION.

23 A person who knowingly makes a false statement or  
24 representation of a material fact or knowingly fails to  
25 disclose a material fact in order to secure an assignment of  
26 income against another person and to receive support payments  
27 or additional support payments pursuant to this chapter, is  
28 guilty, upon conviction, of a serious misdemeanor.

29 Sec. 12. NEW SECTION. 252D.22 RULES.

30 The department shall adopt the administrative rules  
31 necessary to implement the provisions of this chapter as they  
32 pertain to the operations of the child support recovery unit.

33 Sec. 13. Section 598.22, unnumbered paragraph 2, Code  
34 1989, is amended to read as follows:

35 ~~Upon a finding of previous failure to pay child support,~~



1 the-court-may-order-the-person-obligated-for-permanent-child  
2 support-to-make Pursuant to chapter 252D, an assignment of  
3 periodic earnings-or-trust income to the clerk of court or the  
4 collection services center established-pursuant-to-section  
5 252B-13-for-the-use-of-the-person-for-whom-the-assignment-is  
6 ordered may be entered. The assignment of earnings-ordered-by  
7 the-court income shall not exceed the amounts set forth in 15  
8 U.S.C. § 1673(b)(1982). The assignment is binding on the  
9 employer, trustee, or other payor of the funds two weeks after  
10 service upon that person of notice that the assignment has  
11 been made. The payor shall withhold from the earnings-or  
12 trust income payable to the person obligated the amount  
13 specified in the assignment and shall transmit the payments to  
14 the clerk or the collection services center, as appropriate.  
15 However, for trusts governed by the federal Retirement Equity  
16 Act of 1984, Pub. L. No. 98-397, the payor shall transmit the  
17 payments to the alternate payee in accordance with the federal  
18 Act. The payor may deduct from each payment a sum not  
19 exceeding two dollars as a reimbursement for costs. An  
20 employer who dismisses an employee due to the entry of an  
21 assignment order commits a simple misdemeanor.

22 Sec. 14. Sections 252D.4 through 252D.7, Code 1989, are  
23 repealed.

24 Sec. 15. CODIFICATION.

25 1. The Code editor shall entitle chapter 252D as "Child  
26 Support Payments -- Assignment of Income and Immediate Income  
27 Withholding."

28 2. The Code editor shall codify sections 252D.1 through  
29 252D.3 as subchapter I, entitled "Delinquent Support Payments  
30 -- Assignment of Income."

31 3. The Code editor shall codify new sections 252D.8  
32 through 252D.14 as subchapter II entitled "Immediate Income  
33 Withholding."

34 4. The Code editor shall codify sections 252D.18 through  
35 252D.22 as subchapter III, entitled "General Provisions."

1 5. If necessary or appropriate, the Code editor may codify  
2 and entitle this Act in a different manner than prescribed by  
3 this section.

4 EXPLANATION

5 This bill amends chapter 252D of the Code relating to  
6 delinquent child support payments and assignment of income by  
7 providing for immediate withholding of an obligor's income if  
8 services are being provided by the child support recovery unit  
9 of the department of human services, without regard to the  
10 obligor's record of support payments made.

11 BACKGROUND STATEMENT

12 SUBMITTED BY THE AGENCY

13 Federal law previously restricted income withholding to  
14 instances when the obligor failed to make payments in an  
15 amount equal to the support payable for one month or when  
16 withholding had been requested by the obligor. The change  
17 resulting from the federal Family Support Act requires income  
18 withholding regardless of whether support payments are in  
19 arrears. The purpose of the change, as stated in the Family  
20 Support Act, is to assist needy children and parents in ways  
21 which improve effectiveness of the aid to dependent children  
22 program and avoid long-term welfare dependency.

23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35

HOUSE FILE 2437

AN ACT

RELATING TO CHILD SUPPORT PAYMENTS BY PROVIDING FOR IMMEDIATE WITHHOLDING OF AN OBLIGOR'S INCOME AND PROVIDING A PENALTY.

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

Section 1. NEW SECTION. 252D.8 PERSONS SUBJECT TO IMMEDIATE INCOME WITHHOLDING.

1. In a support order issued or modified on or after November 1, 1990, for which services are being provided by the child support recovery unit, the income of a support obligor is subject to withholding, on the effective date of the order, regardless of whether support payments by the obligor are in arrears. The child support recovery unit may enter an ex parte order for an immediate withholding of income or may directly implement immediate withholding of income if authorizing language is contained in the court order. The income of the obligor is subject to such automatic withholding unless one of the following occurs:

- a. One of the parties demonstrates and the court or child support recovery unit finds there is good cause not to require immediate withholding.
- b. A written agreement is reached between both parties which provides for an alternative arrangement.

2. If the support payments have been assigned to the department of human services pursuant to chapter 234 or 239, or a comparable statute of another jurisdiction, the department shall be considered a party to the support order, and a written agreement pursuant to this section to waive immediate withholding is void unless approved by the child support recovery unit. Any existing agreement is void at the time an assignment of support to the state is made.

3. For an order not requiring immediate withholding, income of an obligor is subject to immediate withholding, without regard to whether there is an arrearage, on the earliest of the following:

- a. The date the obligor requests that the withholding begin.
- b. The date the custodial parent or party to the proceeding requests that the withholding begin, if the child support recovery unit approves the request.

Sec. 2. NEW SECTION. 252D.9 SUMS SUBJECT TO IMMEDIATE WITHHOLDING.

Specified sums shall be deducted from the obligor's earnings, trust income, or other income sufficient to pay the support obligation. The amount withheld pursuant to an assignment of income shall not exceed the amount specified in 15 U.S.C. § 1673(b).

Sec. 3. NEW SECTION. 252D.10 NOTICE OF ASSIGNMENT.

The notice requirements of section 252D.3 do not apply to this subchapter. An order for support entered after November 1, 1990, shall contain the notice of immediate income withholding. However, this subchapter is sufficient notice for implementation of immediate income withholding without any further notice.

Sec. 4. NEW SECTION. 252D.11 MOTION TO QUASH.

1. Grounds for contesting a withholding order under this subchapter are any of the following:

a. A mistake of fact, which for purposes of this section means an error in the amount of current or overdue support or the identity of the alleged obligor.

b. The conditions for exception to immediate income withholding as defined under section 252D.8 existed at the time of implementation of the withholding.

2. The clerk of the district court shall schedule a hearing on the motion to quash for a time not later than seven days after the filing of the motion to quash and the notice of the motion to quash. The clerk shall mail to the parties copies of the motion to quash, the notice of the motion to quash, and the order scheduling the hearing.

3. The payor shall withhold and transmit the amount specified in the order of assignment to the clerk of the district court or the collection services center, as appropriate, until the notice that a motion to quash has been granted is received.

**Sec. 5. NEW SECTION. 252D.12 NOTICE TO EMPLOYER OR INCOME PAYOR.**

A notice of immediate income withholding shall be sent to the employer, trustee, or other payor by certified mail. The assignment of income is binding on an existing or future employer, trustee, or other payor ten days after the receipt of the notice by certified mail.

**Sec. 6. NEW SECTION. 252D.13 PRIORITY.**

The assignment of income has priority over a garnishment or an assignment for a purpose other than support of the dependents in the court order being enforced.

**Sec. 7. NEW SECTION. 252D.14 MODIFICATION OR REVOCATION OF IMMEDIATE INCOME WITHHOLDING.**

The child support recovery unit or the district court, upon the application of any party, may modify the assignment of income by ex parte order if current child support has terminated, or may revoke the assignment of income upon the termination of parental rights, emancipation, death, majority of the child, or upon change of custody.

**Sec. 8. NEW SECTION. 252D.18 DUTIES OF THE PAYOR -- LIABILITY.**

1. The employer, trustee, or other payor who receives an order of assignment by certified mail pursuant to section 252D.1, subsection 3, or subchapter II, shall deliver, on the next working day, a copy of the order to the person named in the order. The payor may deduct not more than two dollars from each payment from the employee's wages as a reimbursement for the payor's costs relating to the assignment. The payor's compliance with the order of assignment satisfies the payor's obligation to the person for the amount of income withheld and transmitted to the clerk of the district court.

2. An employer who willfully discharges an employee or refuses to hire a person because of the entry of an order of assignment under this chapter is guilty of a simple misdemeanor.

3. An employer, trustee, or other payor who receives an order of assignment pursuant to section 252D.1, subsection 2, or subchapter II, is liable for the amount which the employer, trustee, or other payor willfully fails to withhold from amounts due the person named in the order, together with costs, interest, and reasonable attorney fees related to the collection of the amounts due from the employer, trustee, or other payor.

**Sec. 9. NEW SECTION. 252D.19 OTHER REMEDIES.**

The remedies provided in this chapter do not exclude the use of other civil or criminal remedies in enforcing support obligations.

**Sec. 10. NEW SECTION. 252D.20 ADMINISTRATION OF INCOME WITHHOLDING PROCEDURES.**

The child support recovery unit is designated as the entity of the state to administer income withholding in accordance with the procedures specified for keeping adequate records to document, track, and monitor support payments on cases subject to Title IV-D of the federal Social Security Act. The clerks

of the district court are designated as the entities for administering income withholding on cases which are not subject to Title IV-D.

Sec. 11. NEW SECTION. 252D.21 PENALTY FOR MISREPRESENTATION.

A person who knowingly makes a false statement or representation of a material fact or knowingly fails to disclose a material fact in order to secure an assignment of income against another person and to receive support payments or additional support payments pursuant to this chapter, is guilty, upon conviction, of a serious misdemeanor.

Sec. 12. NEW SECTION. 252D.22 RULES.

The department shall adopt the administrative rules necessary to implement the provisions of this chapter as they pertain to the operations of the child support recovery unit.

Sec. 13. Section 598.22, Code 1989, is amended by adding the following new unnumbered paragraph after unnumbered paragraph 2:

NEW UNNUMBERED PARAGRAPH. An assignment of periodic income may also be entered under the terms and conditions of chapter 252D.

Sec. 14. Sections 252D.4 through 252D.7, Code 1989, are repealed.

Sec. 15. CODIFICATION.

1. The Code editor shall entitle chapter 252D as "Child Support Payments -- Assignment of Income and Immediate Income Withholding."

2. The Code editor shall codify sections 252D.1 through 252D.3 as subchapter I, entitled "Delinquent Support Payments -- Assignment of Income."

3. The Code editor shall codify new sections 252D.8 through 252D.14 as subchapter II entitled "Immediate Income Withholding."

4. The Code editor shall codify sections 252D.18 through 252D.22 as subchapter III, entitled "General Provisions."

5. If necessary or appropriate, the Code editor may codify and entitle this Act in a different manner than prescribed by this section.

---

DONALD D. AVENSON  
Speaker of the House

---

JO ANN ZIMMERMAN  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2437, Seventy-third General Assembly.

---

JOSEPH O'HERN  
Chief Clerk of the House

Approved March 30, 1990

---

TERRY E. BRANSTAD  
Governor