

FEB 2 1989

HOUSE FILE 403

BY COMMITTEE ON HUMAN RESOURCES

Place On Calendar

*Gen. Human Res*  
*DO PAS 3-30-89 (p.1100)*

(SUCCESSOR TO HSB 170)

Passed House, Date 3-1-89 (p.616) Passed Senate, Date 7-11-89 (p.1314)  
Vote: Ayes 91 Nays 0 Vote: Ayes 48 Nays 0  
Approved May 15, 1989

*Repealed 4-20-89 (p.873)*  
*AYES 98 NAYS 0*  
A BILL FOR

*3268* 1 An Act relating to child support awards by establishing an  
2 advisory committee and requiring the application of uniform  
3 support guidelines by the courts and the department of human  
4 services and providing an effective date.

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

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HF 403

HOUSE FILE 403

H-3268

1 Amend House File 403 as follows:  
2 1. Title page, by striking lines 1 and 2 and  
3 inserting the following: "An Act relating to child  
4 support awards by requiring the application of  
5 uniform".

By TEAFORD of Black Hawk

H-3268 FILED MARCH 1, 1989  
ADOPTED BY UNANIMOUS CONSENT

3-1-89 (p.615)

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1 Section 1. Section 234.39, Code 1989, is amended by  
2 striking the section and inserting in lieu thereof the  
3 following:

4 234.39 RESPONSIBILITY FOR COST OF SERVICES.

5 It is the intent of this chapter that an individual  
6 receiving foster care services and the individual's parents or  
7 guardians, shall have primary responsibility for paying the  
8 cost of the care and services. The support obligation  
9 established and adopted under this section shall be consistent  
10 with the limitations on legal liability established under  
11 sections 222.78 and 230.15, and by any other statute limiting  
12 legal responsibility for support which may be imposed on a  
13 person for the cost of care and services provided by the  
14 department. Support obligations shall be established as  
15 follows:

16 1. For an individual to whom section 234.35, subsection 2  
17 or 4, or section 234.36 is applicable, a dispositional order  
18 of the juvenile court requiring the provision of foster care  
19 shall establish, after notice and a reasonable opportunity to  
20 be heard is provided to a parent or guardian, the amount of  
21 the parent's or guardian's support obligation for the cost of  
22 foster care provided by the department, if a support  
23 obligation has not previously been established under an order  
24 of the district court or court of comparable jurisdiction in  
25 another state. The court shall establish the amount of the  
26 parent's or guardian's support obligation and the amount of  
27 support debt accrued and accruing in accordance with the child  
28 support guidelines prescribed under section 598.21, subsection  
29 4. However, the court may adjust the prescribed obligation  
30 after considering a recommendation by the department for  
31 expenses related to goals and objectives of a case permanency  
32 plan as defined under section 237.15. The order shall direct  
33 the payment of the support obligation to the collection  
34 services center for the use of the department's foster care  
35 recovery unit. The order shall be filed with the clerk of the

1 district court in which the responsible parent or guardian  
2 resides and has the same force and effect as a judgment when  
3 entered in the judgment docket and lien index. The collection  
4 services center shall disburse the payments pursuant to the  
5 order and enter the disbursements in a record book. If  
6 payments are not made as ordered, the child support recovery  
7 unit shall certify a default to the court and the court may,  
8 on its own motion, proceed under section 598.22 or 598.23. An  
9 order entered under this subsection may be modified only in  
10 accordance with the guidelines prescribed under section  
11 598.21, subsection 8.

12 2. For an individual served by the department of human  
13 services under section 234.35, subsection 3, the department  
14 shall determine the obligation of the individual's parent or  
15 guardian in accordance with the child support guidelines  
16 prescribed under section 598.21, subsection 4. However, the  
17 department may adjust the prescribed obligation for expenses  
18 related to goals and objectives of a case permanency plan as  
19 defined under section 237.15. An obligation determined under  
20 this subsection may be modified only in accordance with  
21 conditions under section 598.21, subsection 8.

22 Sec. 2. Section 252C.2, subsections 2 and 3, Code 1989,  
23 are amended to read as follows:

24 2. The payment of public assistance to or for the benefit  
25 of a dependent child or a dependent child's caretaker creates  
26 a support debt due and owing to the department by the  
27 responsible person in an amount equal to the public assistance  
28 payment, except that the support debt is limited to the amount  
29 of a support obligation established by court order or by the  
30 administrator. If a court order has not been entered, the  
31 administrator may establish a support debt ~~in-an-amount~~  
32 ~~determined-to-be-consistent-with-the-debtor's-ability-to-pay~~  
33 ~~and-the-needs-of-the-dependent-child~~, both as to amounts  
34 accrued and accruing, ~~and-with-the-schedule-of-minimum-support~~  
35 ~~guidelines-in~~ pursuant to section 252C.10 598.21, subsection

1 4. However, a support debt is not created in favor of the  
2 department against a responsible person for the period during  
3 which the responsible person is a recipient on the person's  
4 own behalf of public assistance for the benefit of the  
5 dependent child or the dependent child's caretaker.

6 3. The provision of child support collection or paternity  
7 determination services under chapter 252B to an individual,  
8 even though the individual is ineligible for public  
9 assistance, creates a support debt due and owing to the  
10 individual or the individual's child or ward by the  
11 responsible person in the amount of a support obligation  
12 established by court order or by the administrator. If a  
13 court order has not been entered, the administrator may  
14 establish a support debt in favor of the individual or the  
15 individual's child or ward and against the responsible person,  
16 ~~in-an-amount-determined-to-be-consistent-with-the-responsible~~  
17 ~~person's-ability-to-pay-and-the-needs-of-the-dependent-child,~~  
18 both as to amounts accrued and accruing, ~~and-with-the-schedule~~  
19 ~~of-minimum-support-guidelines-in~~ pursuant to section 252C-10  
20 598.21, subsection 4.

21 Sec. 3. Section 252C.4, subsection 4, Code 1989, is  
22 amended to read as follows:

23 4. The court shall ~~consider-the-schedule-of-minimum~~  
24 ~~support-guidelines-in-section-252C-10-in-establishing~~  
25 establish the monthly support payment and the amount of the  
26 support debt accrued and accruing pursuant to section 598.21,  
27 subsection 4.

28 Sec. 4. Section 598.21, subsection 4, Code 1989, is  
29 amended by striking the subsection and inserting in lieu  
30 thereof the following:

31 4. The supreme court is authorized to prescribe uniform  
32 child support guidelines and criteria to be effective October  
33 12, 1989, and to review the guidelines at least once every  
34 four years, pursuant to the federal Family Support Act of  
35 1988, Pub. L. No. 100-485.

1 a. Upon every judgment of annulment, dissolution, or  
2 separate maintenance, the court may order either parent or  
3 both parents to pay an amount reasonable and necessary for  
4 supporting a child. In establishing the amount of support,  
5 consideration shall be given to the responsibility of both  
6 parents to support and provide for the welfare of the minor  
7 child and of a child's need, whenever practicable, for a close  
8 relationship with both parents. There shall be a rebuttable  
9 presumption that the amount of child support which would  
10 result from the application of the guidelines prescribed by  
11 the supreme court is the correct amount of child support to be  
12 awarded. A variation from the guidelines shall not be  
13 considered by a court without a record or written finding,  
14 based on stated reasons, that the guidelines would be unjust  
15 or inappropriate as determined under the criteria prescribed  
16 by the supreme court.

17 b. The guidelines prescribed by the supreme court shall be  
18 used by the department of human services in determining child  
19 support payments under sections 252C.2 and 252C.4. A  
20 variation from the guidelines shall not be considered by the  
21 department without a record or written finding, based on  
22 stated reasons, that the guidelines would be unjust or  
23 inappropriate as determined under criteria prescribed by the  
24 supreme court.

25 Sec. 5. Section 252C.10, Code 1989, is repealed.

26 Sec. 6. This Act takes effect October 12, 1989.

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#### EXPLANATION

28 This bill relates to federal requirements pertaining to  
29 child support orders by authorizing the supreme court to  
30 prescribe uniform child support guidelines and exceptions  
31 which are effective on October 12, 1989. The court may review  
32 the rules every four years.

33 The department of human services and the court are required  
34 to utilize the uniform guidelines and criteria in establishing  
35 support obligations for foster care, subject to certain

1 exceptions.

2 The bill is effective October 12, 1989.

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## SENATE AMENDMENT TO HOUSE FILE 403

H-4014

1 Amend House File 403 as amended and passed by the  
2 House as follows:

3 1. Page 2, by inserting after line 21 the  
4 following:

5 "Sec. \_\_\_\_ . Section 252A.3, subsections 1 and 2,  
6 Code 1989, are amended to read as follows:

7 1. A spouse in one state is hereby declared to be  
8 liable for the support of the spouse and any child or  
9 children under eighteen years of age and any other  
10 dependent residing or found in the same state or in  
11 another state having substantially similar or  
12 reciprocal laws, ~~and, if possessed of sufficient means~~  
13 ~~or able to earn such means, may be required to pay for~~  
14 ~~their support a fair and reasonable sum according to~~  
15 ~~the spouse's means, as may be determined by the.~~ The  
16 court having jurisdiction of the respondent in a  
17 proceeding instituted under this chapter shall  
18 establish the respondent's monthly support payment and  
19 the amount of the support debt accrued and accruing  
20 pursuant to section 598.21, subsection 4.

21 2. A parent in one state is hereby declared to be  
22 liable for the support of the parent's child or  
23 children under eighteen years of age residing or found  
24 in the same state or in another state having  
25 substantially similar or reciprocal laws, whenever the  
26 other parent of such child or children is dead, or  
27 cannot be found, or is incapable of supporting such  
28 the child or children, and, if the liable parent is  
29 possessed of sufficient means or able to earn such the  
30 means, ~~the liable parent may be required to pay for~~  
31 ~~the support of such child or children a fair and~~  
32 ~~reasonable sum according to the parent's means, as may~~  
33 ~~be determined by the.~~ The court having jurisdiction  
34 of the respondent in a proceeding instituted under  
35 this chapter shall establish the respondent's monthly  
36 support payment and the amount of the support debt  
37 accrued and accruing pursuant to section 598.21,  
38 subsection 4.

39 Sec. \_\_\_\_ . Section 252A.6, subsection 11, Code  
40 1989, is amended to read as follows:

41 11. If, on the return day of the summons, the  
42 respondent appears at the time and place specified in  
43 the summons and fails to answer the petition or admits  
44 the allegations of the petition, or, if, after a  
45 hearing has been duly held by the court in the  
46 responding state in accordance with this section, the  
47 court has found and determined that the prayer of the  
48 petitioner, or any part of the prayer, is supported by  
49 the evidence adduced in the proceeding, and that the  
50 petitioner is in need of and entitled to support from

1 the respondent, the court shall make and enter an  
 2 order directing the respondent to furnish support to  
 3 the petitioner and to pay a sum as the court shall  
 4 determine, ~~having due regard to the parties' means and~~  
 5 circumstances determines pursuant to section 598.21,  
 6 subsection 4. A certified copy of the order shall be  
 7 transmitted by the court to the court in the  
 8 initiating state and the copy shall be filed with and  
 9 made a part of the records of the court in the  
 10 proceeding. Upon entry of an order for support or  
 11 upon failure of a person to make payments pursuant to  
 12 an order for support, the court may require the  
 13 respondent to provide security, a bond, or other  
 14 guarantee which the court determines is satisfactory  
 15 to secure the payment of the support. Upon the  
 16 respondent's failure to pay the support under the  
 17 order, the court may declare the security, bond, or  
 18 other guarantee forfeited."

19 2. Page 4, by inserting after line 24 the  
 20 following:

21 "Sec. \_\_\_\_ . Section 675.25, Code 1989, is amended  
 22 to read as follows:

23 675.25 FORM OF JUDGMENT -- CONTENTS OF SUPPORT  
 24 ORDER -- COSTS.

25 ~~The judgment shall be for periodic amounts, equal~~  
 26 ~~or varying, having regard to the obligation of the~~  
 27 ~~father under section 675.17, as the court directs, Upon~~  
 28 a finding or verdict of paternity pursuant to section  
 29 675.24, the court shall establish the father's monthly  
 30 support payment and the amount of the support debt  
 31 accrued or accruing pursuant to section 598.21,  
 32 subsection 4, until the child reaches majority or  
 33 until the child finishes high school, if after  
 34 majority. The court may order the father to pay  
 35 amounts the court deems appropriate for past and  
 36 future support and maintenance of the child and for  
 37 the reasonable and necessary expenses incurred by or  
 38 for the mother in connection with prenatal care, the  
 39 birth of the child, and postnatal care of the child  
 40 and the mother. The court may award the prevailing  
 41 party the reasonable costs of suit, including but not  
 42 limited to reasonable attorney fees."

13 3. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-4014 FILED APRIL 13, 1989

House Concurrent Resolution 25-89 (p. 873)

## HOUSE FILE 403

S-3624

1 Amend House File 403 as passed by the House, as  
2 follows:  
3 1. Page 4, by inserting after line 24, the  
4 following:  
5 "Sec. \_\_\_\_\_. Section 598.21, subsection 8, Code  
6 1989, is amended by adding the following new  
7 unnumbered paragraphs after paragraph k, unnumbered  
8 paragraph 2:  
9 NEW UNNUMBERED PARAGRAPH. Improved technology  
10 leading to better evidence of nonpaternity is not  
11 barred by time limits on new evidence and constitutes  
12 a substantial change in circumstances authorizing the  
13 court to consider modification of a previous  
14 determination of paternity.  
15 NEW UNNUMBERED PARAGRAPH. The enactment of section  
16 598.41 or the enactment of any substantive amendment  
17 to section 598.41 constitutes a substantial change in  
18 circumstances authorizing the court to consider  
19 modification of an award of child custody.  
20 Sec. \_\_\_\_\_. NEW SECTION. 675.43 MODIFICATION.  
21 1. The court may subsequently modify orders made  
22 under this chapter if a substantial change in  
23 circumstances occurs. Modification of orders  
24 pertaining to child custody shall be made pursuant to  
25 section 598.41 or chapter 598A.  
26 2. The enactment of section 598.41 or the  
27 enactment of any substantive amendment to section  
28 598.41 constitutes a substantial change in  
29 circumstances authorizing the court to consider  
30 modification of an award of child custody.  
31 3. Improved technology leading to better evidence  
32 of nonpaternity is not barred by time limits on new  
33 evidence and constitutes a substantial change in  
34 circumstances authorizing the court to consider  
35 modification of a previous determination of paternity.  
36 Sec. \_\_\_\_\_. CHAPTER TITLE CHANGE. The Code editor  
37 shall change the title of chapter 675 to "Parentage of  
38 Children and Obligation for Support."  
39 3. Renumber as necessary.

By RICHARD RUNNING

S-3624 FILED APRIL 11, 1989  
RULED OUT OF ORDER

4-11-89 (p1313)

## HOUSE FILE 403

S-3554

1 Amend House File 403 as amended and passed by the  
2 House as follows:

3 1. Page 2, by inserting after line 21 the  
4 following:

5 "Sec. \_\_\_\_ . Section 252A.3, subsections 1 and 2,  
6 Code 1989, are amended to read as follows:

7 1. A spouse in one state is hereby declared to be  
8 liable for the support of the spouse and any child or  
9 children under eighteen years of age and any other  
10 dependent residing or found in the same state or in  
11 another state having substantially similar or  
12 reciprocal laws; ~~and, if possessed of sufficient means~~  
13 ~~or able to earn such means, may be required to pay for~~  
14 ~~their support a fair and reasonable sum according to~~  
15 ~~the spouse's means, as may be determined by the.~~ The  
16 court having jurisdiction of the respondent in a  
17 proceeding instituted under this chapter shall  
18 establish the respondent's monthly support payment and  
19 the amount of the support debt accrued and accruing  
20 pursuant to section 598.21, subsection 4.

21 2. A parent in one state is hereby declared to be  
22 liable for the support of the parent's child or  
23 children under eighteen years of age residing or found  
24 in the same state or in another state having  
25 substantially similar or reciprocal laws, whenever the  
26 other parent of such child or children is dead, or  
27 cannot be found, or is incapable of supporting such  
28 the child or children, and, if the liable parent is  
29 possessed of sufficient means or able to earn such the  
30 means; ~~the liable parent may be required to pay for~~  
31 ~~the support of such child or children a fair and~~  
32 ~~reasonable sum according to the parent's means, as may~~  
33 ~~be determined by the.~~ The court having jurisdiction  
34 of the respondent in a proceeding instituted under  
35 this chapter shall establish the respondent's monthly  
36 support payment and the amount of the support debt  
37 accrued and accruing pursuant to section 598.21,  
38 subsection 4.

39 Sec. \_\_\_\_ . Section 252A.6, subsection 11, Code  
40 1989, is amended to read as follows:

41 11. If, on the return day of the summons, the  
42 respondent appears at the time and place specified in  
43 the summons and fails to answer the petition or admits  
44 the allegations of the petition, or, if, after a  
45 hearing has been duly held by the court in the  
46 responding state in accordance with this section, the  
47 court has found and determined that the prayer of the  
48 petitioner, or any part of the prayer, is supported by  
49 the evidence adduced in the proceeding, and that the  
50 petitioner is in need of and entitled to support from

S-3554

Page 2

1 the respondent, the court shall make and enter an  
2 order directing the respondent to furnish support to  
3 the petitioner and to pay a sum as the court shall  
4 ~~determine, having due regard to the parties' means and~~  
5 ~~circumstances~~ determines pursuant to section 598.21,  
6 subsection 4. A certified copy of the order shall be  
7 transmitted by the court to the court in the  
8 initiating state and the copy shall be filed with and  
9 made a part of the records of the court in the  
10 proceeding. Upon entry of an order for support or  
11 upon failure of a person to make payments pursuant to  
12 an order for support, the court may require the  
13 respondent to provide security, a bond, or other  
14 guarantee which the court determines is satisfactory  
15 to secure the payment of the support. Upon the  
16 respondent's failure to pay the support under the  
17 order, the court may declare the security, bond, or  
18 other guarantee forfeited."

19 2. Page 4, by inserting after line 24 the  
20 following:

21 "Sec. \_\_\_\_ . Section 675.25, Code 1989, is amended  
22 to read as follows:

23 675.25 FORM OF JUDGMENT -- CONTENTS OF SUPPORT  
24 ORDER -- COSTS.

25 ~~The judgment shall be for periodic amounts, equal~~  
26 ~~or varying, having regard to the obligation of the~~  
27 ~~father under section 675.1, as the court directs; Upon~~  
28 a finding or verdict of paternity pursuant to section  
29 675.24, the court shall establish the father's monthly  
30 support payment and the amount of the support debt  
31 accrued or accruing pursuant to section 598.21,  
32 subsection 4, until the child reaches majority or  
33 until the child finishes high school, if after  
34 majority. The court may order the father to pay  
35 amounts the court deems appropriate for past and  
36 future support and maintenance of the child and for  
37 the reasonable and necessary expenses incurred by or  
38 for the mother in connection with prenatal care, the  
39 birth of the child, and postnatal care of the child  
40 and the mother. The court may award the prevailing  
41 party the reasonable costs of suit, including but not  
42 limited to reasonable attorney fees."

43 3. By renumbering as necessary.

By CHARLES BRUNER

S-3554 FILED APRIL 4, 1989

*adopted 4-11-89 (p.1309)*

Teaford, Chair  
Nielsen  
Hawerland  
Kustler  
Spencer

HSB 170

HUMAN RESOURCES

-None

HOUSE FILE 1703  
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 awards by establishing an  
2 advisory committee and requiring the application of uniform  
3 support guidelines by the courts and the department of human  
4 services and providing an effective date.

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

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1 Section 1. Section 234.39, Code 1989, is amended to read  
2 as follows:

3 234.39 RESPONSIBILITY FOR COST OF SERVICES.

4 It is the intent of this chapter that individuals served by  
5 the department of human services, and their respective parents  
6 or guardians, shall have primary responsibility for paying the  
7 cost of care and services provided by the department, to the  
8 extent consistent with their incomes and resources. The  
9 department shall ~~establish-a-schedule-of-charges-to-be-made~~  
10 ~~for-care-and-services-provided,-on-a-graduated-scale-related~~  
11 ~~to-the-income-and-resources-of-the-person-responsible-for~~  
12 ~~payment,-by-rules-adopted-pursuant-to-chapter-17A~~ determine  
13 the support obligation of the individual's parents or  
14 guardians in accordance with the child support guidelines  
15 prescribed under section 598.21, subsection 4. However, the  
16 department may adjust the prescribed obligation for expenses  
17 related to goals and objectives of a case permanency plan  
18 required under chapter 232. The ~~senedate-of-charges~~ support  
19 obligation established and adopted under this section shall  
20 not be inconsistent consistent with the limitations on legal  
21 liability established under sections 222.78 and 230.15, and by  
22 any other statute limiting legal ~~liability~~ responsibility for  
23 support which may be imposed on any a person for the cost of  
24 care and services provided by the department ~~of-human~~  
25 ~~services.~~

26 A dispositional order of the juvenile court requiring the  
27 provision of foster care shall establish, after notice and a  
28 reasonable opportunity to be heard is provided to a parent or  
29 guardian, the amount of the parent's or guardian's ~~liability~~  
30 support obligation for the cost of foster care provided by the  
31 department. ~~in-establishing-the-amount-of-the-liability,-the~~  
32 ~~court-shall-take-into-consideration-the-department's-schedule~~  
33 ~~of-charges,-and-if-the-amount-established-deviates-from-the~~  
34 ~~schedule-of-charges,-the-court-shall-explain-the-deviation-in~~  
35 ~~its-order.~~ The court shall establish the amount of the

1 parent's or guardian's support obligation and the amount of  
2 support debt accrued and accruing in accordance with the child  
3 support guidelines prescribed under section 598.21, subsection  
4 4. However, the court may adjust the prescribed obligation  
5 pursuant to a recommendation by the department for expenses  
6 related to goals and objectives of a case permanency plan.  
7 The order shall direct the payment of the ~~liability~~ support  
8 obligation to the ~~clerk-of-the-district-court~~ collection  
9 services center for the use of the department's foster care  
10 recovery unit. The order shall be filed with the clerk of the  
11 district court in which the responsible parent or guardian  
12 resides and shall have the same force and effect as a judgment  
13 when entered in the judgment docket and lien index. The ~~clerk~~  
14 collection services center shall disburse the payments  
15 pursuant to the order and enter the disbursements in a record  
16 book. If payments are not made as ordered, the ~~clerk~~  
17 collection services center shall certify a default to the  
18 court and the court may, on its own motion, proceed under  
19 section 598.22 or 598.23. A dispositional order establishing  
20 the amount of a parent's or guardian's ~~liability~~ obligation  
21 for the cost of foster care shall not vacate a prior court  
22 order which establishes the parent's or guardian's ~~child~~  
23 support obligation.

24 Sec. 2. Section 252C.2, subsections 2 and 3, Code 1989,  
25 are amended to read as follows:

26 2. The payment of public assistance to or for the benefit  
27 of a dependent child or a dependent child's caretaker creates  
28 a support debt due and owing to the department by the  
29 responsible person in an amount equal to the public assistance  
30 payment, except that the support debt is limited to the amount  
31 of a support obligation established by court order or by the  
32 administrator. If a court order has not been entered, the  
33 administrator may establish a support debt ~~in an amount~~  
34 ~~determined to be consistent with the debtor's ability to pay~~  
35 ~~and the needs of the dependent child~~, both as to amounts

1 accrued and accruing, ~~and-with-the-schedule-of-minimum-support~~  
2 ~~guidelines-in~~ pursuant to section 252C-10 598.21, subsection  
3 4. However, a support debt is not created in favor of the  
4 department against a responsible person for the period during  
5 which the responsible person is a recipient on the person's  
6 own behalf of public assistance for the benefit of the  
7 dependent child or the dependent child's caretaker.

8 3. The provision of child support collection or paternity  
9 determination services under chapter 252B to an individual,  
10 even though the individual is ineligible for public  
11 assistance, creates a support debt due and owing to the  
12 individual or the individual's child or ward by the  
13 responsible person in the amount of a support obligation  
14 established by court order or by the administrator. If a  
15 court order has not been entered, the administrator may  
16 establish a support debt in favor of the individual or the  
17 individual's child or ward and against the responsible person,  
18 ~~in-an-amount-determined-to-be-consistent-with-the-responsible~~  
19 ~~person's-ability-to-pay-and-the-needs-of-the-dependent-child-~~  
20 both as to amounts accrued and accruing, ~~and-with-the-schedule~~  
21 ~~of-minimum-support-guidelines-in~~ pursuant to section 252C-10  
22 598.21, subsection 4.

23 Sec. 3. Section 252C.4, subsection 4, Code 1989, is  
24 amended to read as follows:

25 4. The court shall ~~consider-the-schedule-of-minimum~~  
26 ~~support-guidelines-in-section-252C-10-in-establishing~~  
27 establish the monthly support payment and the amount of the  
28 support debt accrued and accruing pursuant to section 598.21,  
29 subsection 4.

30 Sec. 4. Section 598.21, subsection 4, Code 1989, is  
31 amended by striking the subsection and inserting in lieu  
32 thereof the following:

33 4. Upon every judgment of annulment, dissolution or  
34 separate maintenance, the court may order either parent or  
35 both parents to pay an amount reasonable and necessary for

1 support of a child. Consideration shall be given to the  
2 child's need for close contact with both parents and  
3 recognition of joint parental responsibility for the welfare  
4 of a minor child. In any order requiring payments for support  
5 of a minor child the court shall follow the guidelines and  
6 criteria established pursuant to this subsection.

7 a. In any proceeding for the award of child support, a  
8 rebuttable presumption arises that the amount of the award  
9 which would result from the application of the guidelines  
10 established under this section is the correct amount of child  
11 support to be awarded. A written finding or specific finding  
12 on the record is required to show that the application of the  
13 guidelines would be unjust or inappropriate in a particular  
14 case, as determined by the guidelines and criteria established  
15 pursuant to this subsection.

16 b. The supreme court shall convene a committee to  
17 recommend statewide child support award guidelines and  
18 criteria for allowing an exception to the guidelines. The  
19 committee shall include representatives of district judges,  
20 attorneys who practice family law, the state court  
21 administrator, and the department of human services. The  
22 supreme court shall prescribe initial guidelines and criteria  
23 as rules of the supreme court on or before October 12, 1989,  
24 pursuant to the Family Support Act of 1988, Pub. L. No. 100-  
25 485.

26 c. The supreme court shall convene a committee with  
27 representatives of the same groups by January 1, 1993, and  
28 every fourth year thereafter, to review the child support  
29 award guidelines and criteria for exceptions. The supreme  
30 court shall consider the recommendations of the committee to  
31 prescribe rules of the supreme court on or before October 12  
32 of the year in which the committee is convened.

33 d. The guidelines and criteria established in rules  
34 prescribed under this subsection shall be used by the  
35 department of human services in determining child support

1 payments under sections 252C.2 and 252C.4.

2 Sec. 5. Section 252C.10, Code 1989, is repealed.

3 Sec. 6. The supreme court shall convene the committee  
4 described in section 4 of this Act as soon as possible, but no  
5 later than fifteen days after the enactment of this Act. The  
6 supreme court shall prescribe rules pursuant to the  
7 recommendations of the committee at the earliest possible  
8 date.

9 Sec. 7. Sections 1 through 5 of this Act take effect on  
10 the effective date of the rules which the supreme court is  
11 required to prescribe under section 4 of this Act. Section 6  
12 takes effect upon enactment.

13 EXPLANATION

14 This bill relates to child support orders by establishing a  
15 committee to recommend guidelines and exceptions. The supreme  
16 court is required to prescribe guidelines and exceptions as  
17 supreme court rules. Required members of the committee are  
18 specified. The time frame in which the committee is required  
19 to meet and rules are to be prescribed is specified. The  
20 committee is required to meet and new rules are to be  
21 prescribed every four years. Internal Code references are  
22 amended.

23 The bill provides effective dates.

24 BACKGROUND STATEMENT

25 SUBMITTED BY THE AGENCY

26 The Family Support Act of 1988 (P.L. 100-485, Section 103)  
27 requires that states establish by October of 1989, uniformly  
28 applied, mandatory support guidelines. These guidelines must  
29 be a rebuttable presumption to be applied unless there is a  
30 written finding made by the court that the application is  
31 unjust or inappropriate. The guidelines must be reviewed at  
32 least every four years. The first review needs to be  
33 completed by October of 1993.

34 The purpose of the support guidelines is to ensure uni-  
35 formity of support awards for children based on the needs of

1 the children and the ability of the responsible parent to pay  
2 support.

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HOUSE FILE 403

AN ACT

RELATING TO CHILD SUPPORT AWARDS BY REQUIRING THE APPLICATION OF UNIFORM SUPPORT GUIDELINES BY THE COURTS AND THE DEPARTMENT OF HUMAN SERVICES AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 234.39, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

234.39 RESPONSIBILITY FOR COST OF SERVICES.

It is the intent of this chapter that an individual receiving foster care services and the individual's parents or guardians, shall have primary responsibility for paying the cost of the care and services. The support obligation established and adopted under this section shall be consistent with the limitations on legal liability established under sections 222.78 and 230.15, and by any other statute limiting legal responsibility for support which may be imposed on a person for the cost of care and services provided by the department. Support obligations shall be established as follows:

1. For an individual to whom section 234.35, subsection 2 or 4, or section 234.36 is applicable, a dispositional order of the juvenile court requiring the provision of foster care shall establish, after notice and a reasonable opportunity to be heard is provided to a parent or guardian, the amount of the parent's or guardian's support obligation for the cost of foster care provided by the department, if a support obligation has not previously been established under an order of the district court or court of comparable jurisdiction in another state. The court shall establish the amount of the parent's or guardian's support obligation and the amount of

support debt accrued and accruing in accordance with the child support guidelines prescribed under section 598.21, subsection 4. However, the court may adjust the prescribed obligation after considering a recommendation by the department for expenses related to goals and objectives of a case permanency plan as defined under section 237.15. The order shall direct the payment of the support obligation to the collection services center for the use of the department's foster care recovery unit. The order shall be filed with the clerk of the district court in which the responsible parent or guardian resides and has the same force and effect as a judgment when entered in the judgment docket and lien index. The collection services center shall disburse the payments pursuant to the order and enter the disbursements in a record book. If payments are not made as ordered, the child support recovery unit shall certify a default to the court and the court may, on its own motion, proceed under section 598.22 or 598.23. An order entered under this subsection may be modified only in accordance with the guidelines prescribed under section 598.21, subsection 8.

2. For an individual served by the department of human services under section 234.35, subsection 3, the department shall determine the obligation of the individual's parent or guardian in accordance with the child support guidelines prescribed under section 598.21, subsection 4. However, the department may adjust the prescribed obligation for expenses related to goals and objectives of a case permanency plan as defined under section 237.15. An obligation determined under this subsection may be modified only in accordance with conditions under section 598.21, subsection 8.

Sec. 2. Section 252A.3, subsections 1 and 2, Code 1989, are amended to read as follows:

1. A spouse in one state is hereby declared to be liable for the support of the spouse and any child or children under eighteen years of age and any other dependent residing or

found in the same state or in another state having substantially similar or reciprocal laws, ~~and if possessed of sufficient means or able to earn such means, may be required to pay for their support a fair and reasonable sum according to the spouse's means, as may be determined by the.~~ The court having jurisdiction of the respondent in a proceeding instituted under this chapter shall establish the respondent's monthly support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4.

2. A parent in one state is hereby declared to be liable for the support of the parent's child or children under eighteen years of age residing or found in the same state or in another state having substantially similar or reciprocal laws, whenever the other parent of such child or children is dead, or cannot be found, or is incapable of supporting such the child or children, and, if the liable parent is possessed of sufficient means or able to earn such the means, the liable parent may be required to pay for the support of such child or children a fair and reasonable sum according to the parent's means, as may be determined by the. The court having jurisdiction of the respondent in a proceeding instituted under this chapter shall establish the respondent's monthly support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4.

Sec. 3. Section 252A.6, subsection 11, Code 1989, is amended to read as follows:

11. If, on the return day of the summons, the respondent appears at the time and place specified in the summons and fails to answer the petition or admits the allegations of the petition, or, if, after a hearing has been duly held by the court in the responding state in accordance with this section, the court has found and determined that the prayer of the petitioner, or any part of the prayer, is supported by the evidence adduced in the proceeding, and that the petitioner is in need of and entitled to support from the respondent, the

court shall make and enter an order directing the respondent to furnish support to the petitioner and to pay a sum as the court ~~shall determine, having due regard to the parties' means and circumstances~~ determines pursuant to section 598.21, subsection 4. A certified copy of the order shall be transmitted by the court to the court in the initiating state and the copy shall be filed with and made a part of the records of the court in the proceeding. Upon entry of an order for support or upon failure of a person to make payments pursuant to an order for support, the court may require the respondent to provide security, a bond, or other guarantee which the court determines is satisfactory to secure the payment of the support. Upon the respondent's failure to pay the support under the order, the court may declare the security, bond, or other guarantee forfeited.

Sec. 4. Section 252C.2, subsections 2 and 3, Code 1989, are amended to read as follows:

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 administrator. If a court order has not been entered, the administrator 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~~ pursuant to section 252C.2 598.21, subsection 4. 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 administrator. If a court order has not been entered, the administrator 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~~ pursuant to section 252C:10 598.21, subsection 4.

Sec. 5. Section 252C.4, subsection 4, Code 1989, is amended to read as follows:

4. The court shall ~~consider the schedule of minimum support guidelines in section 252C:10 in establishing~~ establish the monthly support payment and the amount of the support debt accrued and accruing pursuant to section 598.21, subsection 4.

Sec. 6. Section 598.21, subsection 4, Code 1989, is amended by striking the subsection and inserting in lieu thereof the following:

4. The supreme court is authorized to prescribe uniform child support guidelines and criteria to be effective October 12, 1989, and to review the guidelines at least once every four years, pursuant to the federal Family Support Act of 1988, Pub. L. No. 100-485.

a. Upon every judgment of annulment, dissolution, or separate maintenance, the court may order either parent or both parents to pay an amount reasonable and necessary for supporting a child. In establishing the amount of support, consideration shall be given to the responsibility of both

parents to support and provide for the welfare of the minor child and of a child's need, whenever practicable, for a close relationship with both parents. There shall be a rebuttable presumption that the amount of child support which would result from the application of the guidelines prescribed by the supreme court is the correct amount of child support to be awarded. A variation from the guidelines shall not be considered by a court without a record or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate as determined under the criteria prescribed by the supreme court.

b. The guidelines prescribed by the supreme court shall be used by the department of human services in determining child support payments under sections 252C.2 and 252C.4. A variation from the guidelines shall not be considered by the department without a record or written finding, based on stated reasons, that the guidelines would be unjust or inappropriate as determined under criteria prescribed by the supreme court.

Sec. 7. Section 675.25, Code 1989, is amended to read as follows:

675.25 FORM OF JUDGMENT -- CONTENTS OF SUPPORT ORDER -- COSTS.

~~The judgment shall be for periodic amounts, equal or varying, having regard to the obligation of the father under section 675:1, as the court directs, Upon a finding or verdict of paternity pursuant to section 675.24, the court shall establish the father's monthly support payment and the amount of the support debt accrued or accruing pursuant to section 598.21, subsection 4, until the child reaches majority or until the child finishes high school, if after majority. The court may order the father to pay amounts the court deems appropriate for past and future support and maintenance of the child and for the reasonable and necessary expenses incurred by or for the mother in connection with prenatal care, the~~

birth of the child, and postnatal care of the child and the mother. The court may award the prevailing party the reasonable costs of suit, including but not limited to reasonable attorney fees.

Sec. 8. Section 252C.10, Code 1989, is repealed.

Sec. 9. This Act takes effect October 12, 1989.

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DONALD D. AVENSON  
Speaker of the House

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JO ANN ZIMMERMAN  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 403, Seventy-third General Assembly.

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JOSEPH O'HERN  
Chief Clerk of the House

Approved May 15, 1989

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TERRY E. BRANSTAD  
Governor