

*Reprinted*

SENATE FILE 2314

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 2090)

Passed Senate, Date 3/20/92 (1990) Passed House, Date 4/14/92 (1990)  
Vote: Ayes 48 Nays 0 Vote: Ayes 97 Nays 0  
Approved May 4, 1992

**A BILL FOR**

- 1 An Act relating to child support recovery.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

1 DIVISION I

2 Section 101. Section 252B.4, Code 1991, is amended to read  
3 as follows:

4 252B.4 NONASSISTANCE CASES.

5 The child support and paternity determination services  
6 established by the department pursuant to this chapter and  
7 other appropriate services provided by law including but not  
8 limited to the provisions of chapters 239, 252A, 252C, 252D,  
9 252E, 598 and 675 shall be made available by the unit to an  
10 individual not otherwise eligible as a public assistance  
11 recipient upon application by the individual for the services.  
12 The application shall be filed with the department.

13 1. The director ~~may~~ shall require an application fee not  
14 ~~to exceed twenty of twenty-five~~ to exceed twenty-five dollars.

15 2. The director may require an additional fee to cover the  
16 costs incurred by the department in providing the support  
17 collection and paternity determination services.

18 a. The director shall, by rule, establish and make  
19 ~~available to~~ inform all applicants for support enforcement and  
20 paternity determination services a of the fee schedule. The  
21 ~~fee for support collection and paternity determination~~  
22 ~~services charged to an applicant shall be agreed upon in~~  
23 ~~writing by the applicant, and shall be based upon the~~  
24 ~~applicant's ability to pay for the services.~~

25 b. The ~~application fee and the~~ additional fee for services  
26 may be deducted from the amount of the support money recovered  
27 by the department or may be collected from the recipient of  
28 the services.

29 3. ~~Seventy-percent-of-the-fees~~ Fees collected pursuant to  
30 this section ~~may~~ shall be retained by the department for use  
31 by the unit ~~and thirty-percent shall be remitted to the~~  
32 ~~treasurer of state who shall deposit it in the general fund of~~  
33 ~~the state.~~ The director or a designee ~~and the treasurer of~~  
34 state shall keep an accurate record of funds so retained,  
35 ~~remitted, and deposited.~~

1     Sec. 102. Section 252B.11, Code 1991, is amended to read  
2 as follows:

3     252B.11 RECOVERY OF COSTS OF COLLECTION SERVICES.

4     The unit may initiate necessary civil proceedings to  
5 recover the unit's costs of support collection services  
6 provided to an individual, whether or not the individual is a  
7 public assistance recipient, from an individual who owes and  
8 is able to pay a support obligation but willfully fails to pay  
9 the obligation. The unit may seek a lump sum recovery of the  
10 unit's costs or may seek to recover the unit's costs through  
11 periodic payments which are in addition to periodic support  
12 payments. If the unit's costs are recovered from an  
13 individual owing a support obligation, the costs shall not be  
14 deducted from the amount of support money received from the  
15 individual. ~~Seventy-percent-of-the~~ The costs collected  
16 pursuant to this section ~~may~~ shall be retained by the  
17 department for use by the unit ~~and-thirty-percent-shall-be~~  
18 ~~remitted-to-the-treasurer-of-state-who-shall-deposit-it-in-the~~  
19 ~~general-fund-of-the-state.~~ The director or a designee ~~and-the~~  
20 ~~treasurer-of-state~~ shall keep an accurate record of funds so  
21 retained, ~~remitted, and deposited.~~

22     Sec. 103. Section 252D.1, subsection 2, Code 1991, is  
23 amended to read as follows:

24     2. If support payments ordered under ~~section-234-39;~~  
25 ~~section-252A-6;-subsection-12;-chapter-252C;-section-598-21;~~  
26 ~~or-section-675-25~~ chapter 232, 234, 252A, 252C, 252D, 252E,  
27 598, 675, or any other applicable chapter, or under a  
28 comparable statute of a foreign jurisdiction, as certified to  
29 the child support recovery unit established in section 252B.2,  
30 are not paid to the clerk of the district court or the  
31 collection services center pursuant to section 598.22 and  
32 become delinquent in an amount equal to the payment for one  
33 month, upon application of a person entitled to receive the  
34 support payments, the child support recovery unit or the  
35 district court may enter an ex parte order notifying the

1 person whose income is to be assigned, of the delinquent  
2 amount, of the amount of income or wages to be withheld, and  
3 of the procedure to file a motion to quash the order of  
4 assignment, and shall order an assignment of income and notify  
5 an employer, trustee, or other payor by certified regular  
6 mail, with proof of service completed according to rule of  
7 civil procedure 82, of the order of the assignment of income  
8 requiring the withholding of specified sums to be deducted  
9 from the delinquent person's periodic earnings, trust income,  
10 or other income sufficient to pay the support obligation and,  
11 except as provided in section 598.22, requiring the payment of  
12 such sums to the clerk of the district court or the collection  
13 services center. The assignment of income is binding on an  
14 existing or future employer, trustee, or other payor ten days  
15 after the receipt of the order by ~~certified mail~~. The amount  
16 of an assignment of income shall not exceed the amount  
17 specified in 15 U.S.C. § 1673(b). The assignment of income  
18 has priority over a garnishment or an assignment for a purpose  
19 other than the support of the dependents in the court order  
20 being enforced. The child support recovery unit of the  
21 district court, upon the application of any party, by ex parte  
22 order, may modify the assignment of income on the full payment  
23 of the delinquency or in an instance where the amount being  
24 withheld exceeds the amount specified in 15 U.S.C. § 1673(b),  
25 or may revoke the assignment of income upon the termination of  
26 parental rights, emancipation, death or majority of the child,  
27 or upon a change of custody.

28 Sec. 104. Section 252D.12, Code 1991, is amended to read  
29 as follows:

30 252D.12 NOTICE TO EMPLOYER OR INCOME PAYOR.

31 A notice of immediate income withholding shall be sent to  
32 the employer, trustee, or other payor by certified regular  
33 mail, with proof of service completed according to rule of  
34 civil procedure 82. The assignment of income is binding on an  
35 existing or future employer, trustee, or other payor ten days

1 after the receipt of the notice by-certified-mail.

2 Sec. 105. Section 252D.18, subsection 1, Code Supplement  
3 1991, is amended to read as follows:

4 1. The employer, trustee, or other payor who receives an  
5 order of assignment by-certified-mail-pursuant-to-section  
6 252B.17, -subsection-3, -or-subchapter-II, shall deliver, on the  
7 next working day, a copy of the order to the person named in  
8 the order.

9 a. The order of assignment shall be sent to the employer,  
10 trustee, or other payor by regular mail, with proof of service  
11 completed according to rule of civil procedure 82.

12 b. The payor may deduct not more than two dollars from  
13 each payment from the employee's wages as a reimbursement for  
14 the payor's costs relating to the assignment.

15 c. The payor's compliance with the order of assignment  
16 satisfies the payor's obligation to the person for the amount  
17 of income withheld and transmitted to the clerk of the  
18 district court or collection services center.

19 DIVISION II

20 Sec. 201. NEW SECTION. 252B.7A DETERMINING PARENT'S  
21 INCOME.

22 1. The unit shall use any of the following in determining  
23 the amount of the net monthly income of a parent for purposes  
24 of establishing or modifying a support obligation:

25 a. Income as identified in a signed statement of the  
26 parent pursuant to section 252B.9, subsection 1, paragraph  
27 "b". If evidence suggests that the statement is incomplete or  
28 inaccurate, the unit may present the evidence to the court in  
29 a judicial proceeding or to the administrator in a proceeding  
30 under chapter 252C, and the court or administrator shall weigh  
31 the evidence in setting the support obligation. Evidence  
32 includes but is not limited to income as established under  
33 paragraph "c".

34 b. If a sworn statement is not provided by the parent, the  
35 unit may determine income as established under paragraph "c"

1 or "d".

2 c. Income established by any of the following:

3 (1) Income verified by an employer or payor of income.

4 (2) Income reported to the department of employment  
5 services.

6 (3) For a public assistance recipient, income as reported  
7 to the department case worker assigned to the public  
8 assistance case.

9 (4) Other written documentation which identifies income.

10 d. The estimated state median income for a one-person  
11 family as published annually in the Federal Register for use  
12 by the federal office of community services, office of energy  
13 assistance, for the subsequent federal fiscal year.

14 (1) This provision is effective beginning July 1, 1992,  
15 based upon the information published in the Federal Register  
16 dated March 8, 1991.

17 (2) The unit may revise the estimated income each October  
18 1. If the estimate is not available or has not been  
19 published, the unit may revise the estimate when it becomes  
20 available.

21 e. When the income information obtained pursuant to this  
22 subsection does not include the information necessary to  
23 determine the net monthly income of the parent, the unit may  
24 deduct twenty percent from the parent's gross monthly income  
25 to arrive at the net monthly income figure.

26 2. The amount of the income determined may be challenged  
27 any time prior to the entry of a new or modified order for  
28 support.

29 3. If the child support recovery unit is providing  
30 services pursuant to chapter 2523, the court shall use the  
31 income figure determined pursuant to this section when  
32 applying the guidelines to determine the amount of support.

33 4. The department may develop rules as necessary to  
34 further implement disclosure of financial information of the  
35 parties.

1     Sec. 202. Section 252C.3, subsection 1, paragraph a, Code  
2 1991, is amended by striking the paragraph and relettering the  
3 remaining paragraphs.

4     Sec. 203. Section 252C.3, subsection 1, paragraph b, Code  
5 1991, is amended to read as follows:

6     b. ~~A computation of the support debt statement that the~~  
7 support obligation will be set pursuant to the child support  
8 guidelines established pursuant to section 598.21, subsection  
9 4, and the criteria established pursuant to section 252B.7A.

10    Sec. 204. Section 252C.4, subsection 1, Code 1991, is  
11 amended to read as follows:

12    1. A responsible person or the child support recovery unit  
13 may request a hearing regarding a determination of support.  
14 If a timely written request for a hearing is received, the  
15 administrator shall certify the matter to the district court  
16 in the county in which the order has been filed, or if no such  
17 order has been filed, then to a district court in the county  
18 where the dependent child resides or, where the dependent  
19 child resides in another state, to the district court where  
20 the absent parent resides.

21    Sec. 205. NEW SECTION. 252C.12 WAIVER OF TIME  
22 LIMITATIONS BY RESPONSIBLE PERSON.

23    1. A responsible person may waive the time limitations  
24 established in section 252C.3.

25    2. Upon receipt of a signed statement from the responsible  
26 person waiving the time limitations established in section  
27 252C.3, the administrator may proceed to enter an order for  
28 support and the court may approve the order, whether or not  
29 the time limitations have expired.

30    3. If a responsible person waives the time limitations  
31 established in section 252C.3 and an order for support is  
32 entered under this chapter, the signed statement of the  
33 responsible person waiving the time limitations shall be filed  
34 with the order for support.

35    Sec. 206. Section 252D.9, Code 1991, is amended to read as

1 follows:

2 252D.9 SUMS SUBJECT TO IMMEDIATE 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 and any judgment established or delinquency  
6 accrued under the support order. The amount withheld pursuant  
7 to an assignment of income shall not exceed the amount  
8 specified in 15 U.S.C. § 1673(b).

9 Sec. 207. NEW SECTION. 252D.23 FILING OF WITHHOLDING  
10 ORDER -- ORDER EFFECTIVE AS DISTRICT COURT ORDER.

11 An income withholding order entered by the child support  
12 recovery unit pursuant to this chapter shall be filed with the  
13 clerk of the district court. Upon filing, the withholding  
14 order shall have all the force, effect, and attributes of a  
15 docketed order of the district court including, but not  
16 limited to, availability of contempt of court proceedings  
17 against an employer, trustee, or other payor for  
18 noncompliance.

19 Sec. 208. Section 421.17, subsection 29, unnumbered  
20 paragraph i, Code Supplement 1991, is amended to read as  
21 follows:

22 "To establish and maintain a procedure to set off against  
23 any claim owed to a person by a state agency any liability of  
24 that person owed to a state agency or a support debt being  
25 enforced by the child support recovery unit pursuant to  
26 chapter 2528, except the setoff procedures provided for in  
27 subsections 21, 23, and 25. The procedure shall only apply  
28 when at the discretion of the director it is feasible. The  
29 procedure shall meet the following conditions:

30 Sec. 209. Section 642.2, Code 1991, is amended by adding  
31 the following new subsection 4 and renumbering the subsequent  
32 subsection:

33 NEW SUBSECTION. 4. Notwithstanding subsections 3 and 5,  
34 any moneys owed to the child support obligor by the state are  
35 subject to garnishment, attachment, execution, or assignment.



1 by the child support recovery unit if the child support  
2 recovery unit is providing enforcement services pursuant to  
3 chapter 252B.

4 Sec. 210. Section 675.41, Code 1991, is amended by strik-  
5 ing the section and inserting in lieu thereof the following:

6 675.41 BLOOD AND GENETIC TESTS.

7 1. In a proceeding to establish paternity in law or in  
8 equity the court may on its own motion, and upon request of a  
9 party shall, require the child, mother, and alleged father to  
10 submit to blood or genetic tests.

11 2. If a blood or genetic test is required, the court shall  
12 direct that inherited characteristics, including but not  
13 limited to blood types, be determined by appropriate testing  
14 procedures, and shall appoint an expert qualified as an  
15 examiner of genetic markers to analyze and interpret the  
16 results and to report to the court.

17 3. Verified documentation of the chain of custody of the  
18 blood specimen is competent evidence to establish the chain of  
19 custody. The testimony of the court-appointed expert at trial  
20 is not required.

21 4. A verified expert's report shall be admitted at trial.

22 5. The results of the tests shall have the following  
23 effects:

24 a. Test results which show a statistical probability of  
25 paternity are admissible.

26 b. If the expert concludes that the test results show that  
27 the alleged father is not excluded and that the probability of  
28 the alleged father's paternity is ninety-five percent or  
29 higher, there shall be a rebuttable presumption that the  
30 alleged father is the father, and this evidence must be  
31 admitted.

32 (1) To challenge this presumption of paternity, a party  
33 must file a notice of the challenge with the court within  
34 twenty days of the filing of the expert's report with the  
35 clerk of the district court.

1 (2) The party challenging the presumption of the alleged  
2 father's paternity has the burden of proving that the alleged  
3 father is not the father of the child.

4 (3) The presumption of paternity can be rebutted only by  
5 clear and convincing evidence.

6 c. If the expert concludes that the test results show that  
7 the alleged father is not excluded and that the probability of  
8 the alleged father's paternity is less than ninety-five  
9 percent, test results shall be weighed along with other  
10 evidence of the alleged father's paternity. To challenge the  
11 test results, a party must file a notice of the challenge with  
12 the court within twenty days of the filing of the expert's  
13 report with the clerk of the district court.

14 6. If the results of the tests or the expert's analysis of  
15 inherited characteristics is disputed, the court, upon  
16 reasonable request of a party, shall order that an additional  
17 test be made by the same laboratory or an independent  
18 laboratory at the expense of the party requesting additional  
19 testing.

20 7. The presumption of legitimacy of a child born during  
21 wedlock is overcome if the court finds that the conclusion of  
22 the expert, as disclosed by the evidence based upon the tests,  
23 shows that the husband is not the parent of the child, and a  
24 modification of the paternity finding would meet the  
25 requirements of section 598.21, subsection 8, paragraph "k".

26 8. All costs shall be paid by the parties or parents in  
27 proportions and at times determined by the court.

28 DIVISION III

29 Sec. 301. Section 232.147, Code 1991, is amended by adding  
30 the following new subsections:

31 NEW SUBSECTION. 7. The clerk of the district court shall  
32 enter information from the juvenile record on the judgment  
33 docket and lien index, but only as necessary to record support  
34 judgments.

35 NEW SUBSECTION. 8. The state agency designated to enforce

1 support obligations may release information as necessary in  
2 order to meet statutory responsibilities.

3 Sec. 302. NEW SECTION. 234.4 JURISDICTION.

4 Notwithstanding any other provision of this chapter, and  
5 for the purposes of establishing a parental liability obli-  
6 gation for a child under the jurisdiction of the juvenile  
7 court, the court shall establish a support obligation pursuant  
8 to section 234.39 or the department shall establish a support  
9 obligation pursuant to chapter 252C, provided that a support  
10 obligation has not previously been established under an order  
11 of the district court or chapter 252C.

12 Sec. 303. Section 234.39, subsections 1 and 2, Code 1991,  
13 are amended to read as follows:

14 1. For an individual to whom section 234.35, subsection 2,  
15 4, or 5, is applicable, a dispositional order of the juvenile  
16 court requiring the provision of foster care, or an  
17 administrative order entered pursuant to chapter 252C, shall  
18 establish, after notice and a reasonable opportunity to be  
19 heard is provided to a parent or guardian, the amount of the  
20 parent's or guardian's support obligation for the cost of  
21 foster care provided by the department, if a support  
22 obligation has not previously been established under an order  
23 of the district court or court of comparable jurisdiction in  
24 another state or pursuant to chapter 252C. The court, or the  
25 department of human services in establishing support by  
26 administrative order, shall establish the amount of the  
27 parent's or guardian's support obligation and the amount of  
28 support debt accrued and accruing in accordance with the child  
29 support guidelines prescribed under section 598.21, subsection  
30 4. However, the court, or the department of human services in  
31 establishing support by administrative order, may adjust  
32 deviate from the prescribed obligation after considering a  
33 recommendation by the department for expenses related to goals  
34 and objectives of a case permanency plan as defined under  
35 section 237.15, and upon written findings of fact which

1 specify the reason for deviation and the prescribed guidelines  
2 amount. ~~The order~~ Any order for support shall direct the  
3 payment of the support obligation to the collection services  
4 center for the use of the department's foster care recovery  
5 unit. The order shall be filed with the clerk of the district  
6 court in which the responsible parent or guardian resides and  
7 has the same force and effect as a judgment when entered in  
8 the judgment docket and lien index. The collection services  
9 center shall disburse the payments pursuant to the order and  
10 enter record the disbursements ~~in-a-record-book~~. If payments  
11 are not made as ordered, the child support recovery unit shall  
12 may certify a default to the court and the court may, on its  
13 own motion, proceed under section 598.22 or 598.23 or the  
14 child support recovery unit may enforce the judgment as  
15 allowed by law. An order entered under this subsection may be  
16 modified only in accordance with the guidelines prescribed  
17 under section 598.21, subsection 2.

18 2. For an individual served by the department of human  
19 services under section 234.35, subsection 3, the department  
20 shall determine the obligation of the individual's parent or  
21 guardian pursuant to chapter 252C and in accordance with the  
22 child support guidelines prescribed under section 598.21,  
23 subsection 4. However, the department may adjust the  
24 prescribed obligation for expenses related to goals and  
25 objectives of a case permanency plan as defined under section  
26 237.15. An obligation determined under this subsection may be  
27 modified only in accordance with conditions under section  
28 598.21, subsection 8.

29 Sec. 304. Section 234.39, Code 1991, is amended by adding  
30 the following new subsection:

31 NEW SUBSECTION. 3. A person entitled to periodic support  
32 payments pursuant to an order or judgment entered in any  
33 action for support, who also is or has a child receiving  
34 foster care services, is deemed to have assigned to the  
35 department current and accruing support payments attributable

1 to the child effective as of the date the child enters foster  
2 care placement, to the extent of expenditure of foster care  
3 funds. The department shall notify the clerk of the district  
4 court when a child entitled to support payments is receiving  
5 foster care services pursuant to chapter 234. Upon  
6 notification by the department that a child entitled to  
7 periodic support payments is receiving foster care services,  
8 the clerk of the district court shall make a notation of the  
9 automatic assignment in the judgment docket and lien index.  
10 The notation constitutes constructive notice of assignment.  
11 The clerk of court shall furnish the department with copies of  
12 all orders and decrees awarding support when the child is  
13 receiving foster care services. At the time the child ceases  
14 to receive foster care services, the assignment of support  
15 shall be automatically terminated. Unpaid support accrued  
16 under the assignment of support rights during the time that  
17 the child was in foster care remains due to the department up  
18 to the amount of unreimbursed foster care funds expended. The  
19 department shall notify the clerk of court of the automatic  
20 termination of the assignment.

21 DIVISION IV

22 Sec. 401. Section 252C.2, subsections 2 and 3, Code 1991,  
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 in Iowa,  
31 or if an order does not address accrued support owed to the  
32 state for public assistance expended, the administrator may  
33 establish a support debt, both as to amounts accrued and  
34 accruing, pursuant to section 598.21, subsection 4. However,  
35 a support debt is not created in favor of the department

1 against a responsible person for the period during which the  
2 responsible person is a recipient on the person's own behalf  
3 of public assistance for the benefit of the dependent child or  
4 the dependent child's caretaker.

5 3. The provision of child support collection or paternity  
6 determination services under chapter 252B to an individual,  
7 even though the individual is ineligible for public  
8 assistance, creates a support debt due and owing to the  
9 individual or the individual's child or ward by the  
10 responsible person in the amount of a support obligation  
11 established by court order or by the administrator. If a  
12 court order has not been entered in Iowa, the administrator  
13 may establish a support debt in favor of the individual or the  
14 individual's child or ward and against the responsible person,  
15 both as to amounts accrued and accruing, pursuant to section  
16 598.21, subsection 4.

17 Sec. 402. Section 252C.2, Code 1991, is amended by adding  
18 the following new subsection 4 and renumbering the subsequent  
19 subsection:

20 NEW SUBSECTION. 4. The payment of medical assistance  
21 pursuant to chapter 249A for the benefit of a dependent child  
22 or a dependent child's caretaker creates a support debt due  
23 and owing to the department. If a court order has not been  
24 entered in Iowa, or if an administrative order or a court  
25 order entered in Iowa does not require provision of medical  
26 support pursuant to chapter 252E, or equivalent medical  
27 support, the administrator may establish an order for medical  
28 support.

29 Sec. 403. Section 252C.3, subsection 1, unnumbered para-  
30 graph 1, Code 1991, is amended to read as follows:

31 ~~In the absence of a court order, or if an administrative~~  
32 ~~order exists which does not require provision of medical~~  
33 ~~support as defined in chapter 252E or equivalent medical~~  
34 ~~support, the~~ The administrator may issue a notice establishing  
35 and demanding stating the intent to secure an order for either

1 payment of medical support established as defined in chapter  
2 252E or payment of an accrued or accruing support debt due and  
3 owed to the department or an individual under section 252C.2,  
4 or both. The notice shall be served upon the responsible  
5 person in accordance with the rules of civil procedure. The  
6 notice shall include all of the following:

7 Sec. 404. Section 252D.20, Code 1991, is amended to read  
8 as follows:

9 252D.20 ADMINISTRATION OF INCOME WITHHOLDING PROCEDURES.

10 The child support recovery unit is designated as the entity  
11 of the state to administer income withholding in accordance  
12 with the procedures specified for keeping adequate records to  
13 document, track, and monitor support payments on cases subject  
14 to Title IV-D of the federal Social Security Act. The clerks  
15 of the district court are designated as the entities for  
16 administering income withholding on cases which are not  
17 subject to Title IV-D. Notwithstanding section 622.53, in  
18 cases where the court or the child support recovery unit is  
19 enforcing a foreign judgment through income withholding, a  
20 certified copy of the underlying judgment is sufficient proof  
21 of authenticity.

22 Sec. 405. Section 598.21, subsection 4, unnumbered  
23 paragraph 1, Code 1991, is amended to read as follows:

24 The supreme court ~~is authorized to prescribe~~ shall maintain  
25 uniform child support guidelines and criteria to be effective  
26 October-12-1989; and to review the guidelines and criteria at  
27 least once every four years, pursuant to the federal Family  
28 Support Act of 1988, Pub. L. No. 100-485. The initial review  
29 shall be performed within four years of October 12, 1989, and  
30 subsequently within the four-year period of the most recent  
31 review.

32 Sec. 406. Section 598.21, subsection 9, Code 1991, is  
33 amended to read as follows:

34 9. Notwithstanding subsection 8, a substantial change of  
35 circumstances exists when the court order for child support

1 ~~deviates from the~~ by twenty percent or more from the amount  
2 which would be due pursuant to the most current child support  
3 guidelines established pursuant to section 598.21, subsection  
4 4. A substantial change of circumstances also exists when the  
5 court order for child support deviates from the guidelines for  
6 a reason other than that stated in the original order, unless  
7 the provisions ~~of~~ for deviation as provided by the guidelines  
8 themselves have changed since the entry or subsequent  
9 modification of the original order. Upon application for a  
10 modification of an order for child support where services are  
11 being received pursuant to chapter 252B, the court shall act  
12 ~~in accordance with~~ set the amount of child support based upon  
13 the most current child support guidelines established pursuant  
14 to section 598.21, subsection 4. The child support recovery  
15 unit shall, in submitting an application for modification of  
16 an order for support, employ additional criteria and  
17 procedures for the review and adjustment of support awards as  
18 established by rule.

19 DIVISION V

20 Sec. 591. Section 252B.5, subsections 2, 3, and 5, Code  
21 1991, are amended to read as follows:

22 2. Aid in establishing paternity and securing a court  
23 order for support pursuant to chapter 252A or 675.

24 3. Aid in enforcing through court or administrative  
25 proceedings an existing court order for support issued  
26 pursuant to chapters chapter 252A, 252C, 598, and or 675, or  
27 any other chapter under which child or medical support is  
28 granted.

29 5. Determine periodically whether an individual receiving  
30 unemployment compensation benefits under chapter 56 owes a  
31 support obligation which is being enforced by the unit, and  
32 enforce the support obligation through court or administrative  
33 ~~proceedings in the absence of a voluntary agreement by the~~  
34 individual to have specified amounts withheld from the  
35 individual's unemployment compensation benefits.



1     Sec. 502. Section 252C.5, Code 1991, is amended to read as  
2 follows:

3     252C.5 FILING AND DOCKETING OF FINANCIAL RESPONSIBILITY  
4 ORDER -- ORDER EFFECTIVE AS DISTRICT COURT DECREE.

5     A true copy of any order entered by the administrator  
6 pursuant to this chapter, along with a true copy of the return  
7 of service, if applicable, may be filed in the office of the  
8 clerk of the district court in the county in which the  
9 dependent child resides or, where the dependent child resides  
10 in another state, in the office of the district court in the  
11 county in which the absent parent resides. ~~Upon filing, the~~

12 ~~clerk shall enter the order in the judgment docket, and the~~

13     1. The administrator's order shall be presented, ex parte,  
14 to the district court for review and approval, and unless,

15 unless defects appear on the face of the order or on the  
16 attachments, the district court shall approve the order, and

17 the. The approved order shall have all the force, effect, and  
18 attributes of a docketed order or decree of the district  
19 court.

20     2. Upon filing, the clerk shall enter the order in the  
21 judgment docket.

22     Sec. 503. Section 252E.1, subsection 1, Code 1991, is  
23 amended to read as follows:

24     1. "Child" means a person for whom child or medical  
25 support may be ordered pursuant to chapter 234, 239, 252A,  
26 252C, 598, or 675 or any other chapter of the Code or pursuant  
27 to a comparable statute of a foreign jurisdiction.

28     Sec. 504. Section 252E.2, Code 1991, is amended to read as  
29 follows:

30     252E.2 ORDER FOR MEDICAL SUPPORT.

31     The entry of an order, pursuant to chapter 234, 252A, 252C,  
32 598, or 675 or any other chapter of the Code or pursuant to a  
33 comparable statute of a foreign jurisdiction, requiring the  
34 provision of coverage under a health benefit plan is  
35 authorization for enrollment of the dependent if the dependent

1 is otherwise eligible to be enrolled. The dependent's  
2 eligibility and enrollment for coverage under such a plan  
3 shall be governed by all applicable terms and conditions,  
4 including, but not limited to, eligibility and insurability  
5 standards. The dependent, if eligible, shall be provided the  
6 same coverage as the obligor.

7 Sec. 505. Section 421.17, subsection 21, Code Supplement  
8 1991, is amended to read as follows:

9 21. To establish and maintain a procedure to set off  
10 against a debtor's income tax refund or rebate any debt, which  
11 is assigned to the department of human services, which the  
12 child support recovery unit is attempting to collect on behalf  
13 of an individual not eligible as a public assistance  
14 recipient, or which the foster care recovery unit of the  
15 department of human services is attempting to collect on  
16 behalf of a child receiving foster care provided by the  
17 department of human services.

18 a. This includes any of the following:

19 (1) Any debt which has accrued through written contract,  
20 subrogation, or court judgment and which is in the form of a  
21 liquidated sum due and owing for the care, support or  
22 maintenance of a child or.

23 (2) Any debt which has accrued through a court judgment  
24 which is due and owing as a support obligation for the  
25 debtor's spouse or former spouse when enforced in conjunction  
26 with a child support obligation.

27 (3) Any debt which is owed to the state for public  
28 assistance overpayments to recipients or to providers of  
29 services to recipients which the investigations division of  
30 the department of inspections and appeals is attempting to  
31 collect on behalf of the state. For purposes of this  
32 subsection, "public assistance" means aid to dependent  
33 children, medical assistance, food stamps, foster care, and  
34 state supplementary assistance.

35 b. The procedure shall meet the following conditions:

1 a: (1) Before setoff all outstanding tax liabilities  
2 collectible by the department of revenue and finance shall be  
3 satisfied except that no portion of a refund or rebate shall  
4 be credited against tax liabilities which are not yet due.

5 b: (2) Before setoff the child support recovery unit  
6 established pursuant to section 252B.2, the foster care  
7 recovery unit, and the investigations division of the  
8 department of inspections and appeals shall obtain and forward  
9 to the department of revenue and finance the full name and  
10 social security number of the debtor. The department of  
11 revenue and finance shall co-operate in the exchange of  
12 relevant information with the child support recovery unit as  
13 provided in section 252B.9, with the foster care recovery  
14 unit, and with the investigations division of the department  
15 of inspections and appeals. However, only relevant  
16 information required by the child support unit, by the foster  
17 care recovery unit, or by the investigations division of the  
18 department of inspections and appeals shall be provided by the  
19 department of revenue and finance. The information shall be  
20 held in confidence and shall be used for purposes of setoff  
21 only.

22 c: (3) The child support recovery unit, the foster care  
23 recovery unit, and the investigations division of the  
24 department of inspections and appeals shall, at least  
25 annually, submit to the department of revenue and finance for  
26 setoff the debts described in this subsection, which are at  
27 least fifty dollars, on a date to be specified by the  
28 department of human services and the department of inspections  
29 and appeals by rule.

30 d: (4) Upon submission of a claim the department of  
31 revenue and finance shall notify the child support recovery  
32 unit, the foster care recovery unit, or the investigations  
33 division of the department of inspections and appeals as to  
34 whether the debtor is entitled to a refund or rebate and if so  
35 entitled shall notify the unit or division of the amount of

1 the refund or rebate and of the debtor's address on the income  
2 tax return.

3 e: (5) Upon notice of entitlement to a refund or rebate  
4 the child support recovery unit, the foster care recovery  
5 unit, or the investigations division of the department of  
6 inspections and appeals shall send written notification to the  
7 debtor, and a copy of the notice to the department of revenue  
8 and finance, of the unit's or division's assertion of its  
9 rights, or the rights of the department of human services, or  
10 the rights of an individual not eligible as a public  
11 assistance recipient to all or a portion of the debtor's  
12 refund or rebate and the entitlement to recover the debt  
13 through the setoff procedure, the basis of the assertion, the  
14 opportunity to request that a joint income tax refund or  
15 rebate be divided between spouses, the debtor's opportunity to  
16 give written notice of intent to contest the claim, and the  
17 fact that failure to contest the claim by written application  
18 for a hearing will result in a waiver of the opportunity to  
19 contest the claim, causing final setoff by default. Upon  
20 application filed with the department of human services within  
21 fifteen days from the mailing of the notice of entitlement to  
22 a refund or rebate, the department of human services shall  
23 grant a hearing pursuant to chapters 16A and 17A. An appeal  
24 taken from the decision of an administrative law judge and  
25 subsequent appeals shall be taken pursuant to chapter 17A.

26 e: (6) Upon the request of a debtor or a debtor's spouse  
27 to the child support recovery unit, the foster care recovery  
28 unit, or the investigations division of the department of  
29 inspections and appeals, filed within fifteen days from the  
30 mailing of the notice of entitlement to a refund or rebate,  
31 and upon receipt of the full name and social security number  
32 of the debtor's spouse, the unit or division shall notify the  
33 department of revenue and finance of the request to divide a  
34 joint income tax refund or rebate. The department of revenue  
35 and finance shall upon receipt of the notice divide a joint

1 income tax refund or rebate between the debtor and the  
2 debtor's spouse in proportion to each spouse's net income as  
3 determined under section 422.7.

4 g: [7] The department of revenue and finance shall, after  
5 notice has been sent to the debtor by the child support  
6 recovery unit, the foster care recovery unit, or the  
7 investigations division of the department of inspections and  
8 appeals, set off the debt against the debtor's income tax  
9 refund or rebate. However, if a debtor has made all current  
10 child support or foster care payments in accordance with a  
11 court order or an assessment of foster care liability for the  
12 twelve months preceding the proposed setoff and has regularly  
13 made delinquent child support or foster care payments during  
14 those twelve months, the child support or foster care recovery  
15 unit shall notify the department of revenue and finance not to  
16 set off the debt against the debtor's income tax refund or  
17 rebate. If a debtor has made all current repayment of public  
18 assistance in accordance with a court order or voluntary  
19 repayment agreement for the twelve months preceding the  
20 proposed setoff and has regularly made delinquent payments  
21 during those twelve months, the investigations division of the  
22 department of inspections and appeals shall notify the  
23 department of revenue and finance not to set off the debt  
24 against the debtor's income tax refund or rebate. The  
25 department of revenue and finance shall refund any balance of  
26 the income tax refund or rebate to the debtor. The department  
27 of revenue and finance shall periodically transfer the amount  
28 set off to the child support recovery unit, the foster care  
29 recovery unit, or the investigations division of the  
30 department of inspections and appeals. If the debtor gives  
31 timely written notice of intent to contest the claim the  
32 department of revenue and finance shall hold the refund or  
33 rebate until final disposition of the contested claim pursuant  
34 to chapter 17A or by court judgment. The child support  
35 recovery unit, the foster care recovery unit, or the

1 investigations division of the department of inspections and  
2 appeals shall notify the debtor in writing upon completion of  
3 setoff.

4 Sec. 506. Section 598.21, subsection 4, paragraph a,  
5 unnumbered paragraph 2, Code 1991, is amended to read as  
6 follows:

7 ~~Until such time as the supreme court incorporates the~~  
8 ~~provision of medical support in the guidelines as required by~~  
9 ~~paragraph "c"; the~~ The court shall order as child medical  
10 support a health benefit plan as defined in chapter 252E if  
11 available to either parent at a reasonable cost. A health  
12 benefit plan is considered reasonable in cost if it is  
13 employment-related or other group health insurance, regardless  
14 of the service delivery mechanism. The premium cost of the  
15 health benefit plan may be considered by the court as a reason  
16 for varying from the child support guidelines. If a health  
17 benefit plan is not available at a reasonable cost, the court  
18 may order any other provisions for medical support as defined  
19 in chapter 252E.

20 Sec. 507. Section 598.21, subsection 4, Code 1991, is  
21 amended by adding the following new paragraph:

22 NEW PARAGRAPH. d. For purposes of calculating a support  
23 obligation under this section, the income of the parent from  
24 whom support is sought shall be used as the noncustodial  
25 parent income for purposes of application of the guidelines,  
26 regardless of the legal custody of the child.

27 Sec. 508. Section 627.13, Code 1991, is amended to read as  
28 follows:

29 627.13 WORKERS' COMPENSATION.

30 Any compensation due or that may become due an employee or  
31 dependent under the ~~provisions of~~ chapter 85 shall be is  
32 exempt from garnishment, attachment, and execution, and  
33 assignment of income, except for the purposes of enforcing  
34 child, spousal, or medical support obligations.

35

EXPLANATION

SENATE FILE 2316  
FISCAL NOTE

---

A fiscal note for Senate File 2316 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

---

Senate File 2316 provides for amendments to child support recovery provisions related to administrative costs, child support recovery collection enhancements, foster care collection enhancements, compliance with federal child support recovery requirements, and technical corrections.

FISCAL EFFECT:

Sections 101 and 102 increase the one-time application fee charged only to new non-public assistance recipients. The current fee is \$20 and is paid by an average of 192 persons per month. The bill increases the fee by \$5. The annual additional revenue is projected to be \$11,520.

These Sections also change the statutory provisions concerning the disposition of child support fees. Under current statute 70% of the fees go to child support enforcement and 30% of the fees are deposited into the General Fund. This bill would conform the statute to actual practice under the FY 1992 Human Services appropriations bill: 100% of the fees would be used for enforcement.

The proposed FY 1993 budget assumes collection of \$1.6 million in fees; this amount reflects the current practice of depositing all fees into the General Fund. Thirty percent of fee revenue is projected to be \$486,000. Under the bill this amount would be used for child support enforcement; the additional spending on enforcement is expected to generate \$750,000 in revenues to the State which are used to reduce the amount of General Fund dollars needed for the Aid to Families with Dependent Children (AFDC) Program.

Sections 103 to 105 ease mailing requirements for income withholding orders. It is estimated that discontinuing use of certified mail will reduce State expenditures by \$11,816. This amount will be used for other child support activities which will generate additional revenues which are used to offset AFDC costs.

Source: Department of Human Services

(LSB 5314sv, JMN)

FILED MARCH 18, 1992

BY DENNIS PROUTY, FISCAL DIRECTOR

1 This bill provides for amendments to child support recovery  
2 provisions related to administrative costs, child support  
3 recovery collection enhancements, foster care collection  
4 enhancements, compliance with federal child support recovery  
5 requirements, and technical corrections.

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35



## SENATE FILE 2316

S-5278

1 Amend Senate File 2316 as follows:  
 2 1. Page 7, line 34, by inserting after the word  
 3 "state" the following: "and payments owed to the  
 4 child support obligor through the Iowa public  
 5 employees' retirement system".  
 6 2. Page 15, by inserting after line 19, the  
 7 following:  
 8 "Sec. \_\_\_\_ . Section 97B.39, Code 1991, is amended  
 9 to read as follows:  
 10 97B.39 RIGHTS NOT TRANSFERABLE -- NOT SUBJECT TO  
 11 LEGAL PROCESS.  
 12 The right of any person to any future payment under  
 13 this chapter is not transferable or assignable, at law  
 14 or in equity, and the moneys paid or payable or rights  
 15 existing under this chapter are not subject to  
 16 execution, levy, attachment, garnishment, or other  
 17 legal process, or to the operation of any bankruptcy  
 18 or insolvency law except for the purposes of enforcing  
 19 child, spousal, or medical support obligations. For  
 20 the purposes of enforcing child, spousal, or medical  
 21 support obligations, the garnishment or attachment of  
 22 or the execution against compensation due a person  
 23 under chapter 97B shall not exceed the amount  
 24 specified in 15 U.S.C. § 1673(b)."

By RALPH ROSENBERG

S-5278 FILED MARCH 18, 1992

*Adopted 3/20 (p. 900)*

## SENATE FILE 2316

S-5282

1 Amend Senate File 2316 as follows:  
 2 1. Page 21, line 34, by inserting after the word  
 3 "obligations." the following: "For the purposes of  
 4 enforcing child, spousal, or medical support  
 5 obligations, the garnishment or attachment of or the  
 6 execution against compensation due an employee or  
 7 dependent under chapter 85 shall be limited as  
 8 specified in 15 U.S.C. § 1673(b)."

By ELAINE SZYMONIAK  
AL STURGEON

S-5282 FILED MARCH 18, 1992

*Adopted 3/20 (p. 894)*

## SENATE FILE 2316

S-5308

1 Amend Senate File 2316 as follows:  
 2 1. Page 1, line 14, by inserting after the word  
 3 "dollars" the following: "which shall only be col-  
 4 lected following recovery of support money by the  
 5 department".  
 6 2. Page 1, line 28, by inserting after the word  
 7 "services" the following: "following recovery of  
 8 support money by the department".

By FLORENCE BUHR

S-5308 FILED MARCH 19, 1992

*with 5:30 PM - 3/19  
Adopted 5:50 PM 3/20 (p. 896)*

SENATE FILE 2316

S-5260

- 1 Amend Senate File 2316 as follows:
  - 2 1. Page 10, line 3, by striking the figure
  - 3 "234.4" and inserting the following: "232.4".
- By ELAINE SZYMONIAK

S-5260 FILED MARCH 17, 1992

*Adopted 3/17 (p. 505)*

SENATE FILE 2316

S-5263

- 1 Amend Senate File 2316 as follows:
  - 2 1. Page 21, by striking lines 27 through 34.
- By RICHARD V. RUNNING

S-5263 FILED MARCH 17, 1992

*out of order 3/20 (p. 895)*

SENATE FILE 2316

S-5269

- 1 Amend Senate File 2316 as follows:
- 2 1. Page 21, line 34, by inserting after the word
- 3 "obligations." the following: "For the purposes of
- 4 enforcing child, spousal, or medical support
- 5 obligations, the garnishment or attachment of or the
- 6 execution against compensation due an employee or
- 7 dependent under chapter 85 shall be limited to a
- 8 maximum of fifty percent of the monthly compensation."

By ELAINE SZYMONIAK  
AL STURGEON

S-5269 FILED MARCH 17, 1992

*Adopted 3/20 (p. 894)*

SENATE FILE 2316

S-5272

- 1 Amend Senate File 2316 as follows:
- 2 1. Page 9, by inserting after line 25, the
- 3 following:
- 4 "7A. Notwithstanding section 598.21, subsection 8,
- 5 paragraph "k", the presumption of paternity of a child
- 6 when paternity is established in the absence of blood
- 7 or genetic testing is overcome if, at any time
- 8 subsequent to such establishment, the court finds that
- 9 the conclusion of the expert as disclosed by the
- 10 evidence based upon the tests shows that the
- 11 established father is not the father of the child. If
- 12 the presumption is overcome, the established father is
- 13 relieved of all future support obligations owed the
- 14 child."
- 15 2. By renumbering as necessary.

By LINN FUHRMAN

S-5272 FILED MARCH 17, 1992

*Adopted 3/20 (p. 894)*

Free Name Rec, Amend + No Rec (H-5548) 3/86

SENATE FILE 2316

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 2090)

(AS AMENDED AND PASSED BY THE SENATE MARCH 20, 1992)

~~\_\_\_\_\_~~ - New Language by the Senate

Passed Senate, Date 4/16/92 (p. 1445) Passed House, Date 4/14/92 (p. 1390)

Vote: Ayes 47 Nays 0 Vote: Ayes 77 Nays 0

Approved May 4, 1992

*Mathematical Amendment (p. 1467)  
relegated 4/20*

*Referred House 4/21/92 (p. 1090)  
referred 100, 700 =*

*Referred Senate 4/20/92 (p. 1440)  
43-0*

A BILL FOR

1 An Act relating to child support recovery.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

S.F. 2316

DIVISION I

1  
2 Section 101. Section 252B.4, Code 1991, is amended to read  
3 as follows:

4 252B.4 NONASSISTANCE CASES.

5 The child support and paternity determination services  
6 established by the department pursuant to this chapter and  
7 other appropriate services provided by law including but not  
8 limited to the provisions of chapters 239, 252A, 252C, 252D,  
9 252E, 598 and 675 shall be made available by the unit to an  
10 individual not otherwise eligible as a public assistance  
11 recipient upon application by the individual for the services.  
12 The application shall be filed with the department.

13 1. The director ~~may~~ shall require an application fee not  
14 ~~to-exceed-twenty~~ of twenty-five dollars.

15 2. The director may require an additional fee to cover the  
16 costs incurred by the department in providing the support  
17 collection and paternity determination services.

18 a. The director shall, by rule, establish and make  
19 ~~available-to~~ inform all applicants for support enforcement and  
20 paternity determination services ~~a~~ of the fee schedule. The  
21 ~~fee-for-support-collection-and-paternity-determination~~  
22 ~~services-charged-to-an-applicant-shall-be-agreed-upon-in~~  
23 ~~writing-by-the-applicant,-and-shall-be-based-upon-the~~  
24 ~~applicant's-ability-to-pay-for-the-services-~~

25 b. The ~~application-fee-and-the~~ additional fee for services  
26 may be deducted from the amount of the support money recovered  
27 by the department or may be collected from the recipient of  
28 the services following recovery of support money by the  
29 department.

30 3. ~~Seventy-percent-of-the-fees~~ Fees collected pursuant to  
31 this section ~~may~~ shall be retained by the department for use  
32 by the unit ~~and-thirty-percent-shall-be-remitted-to-the~~  
33 ~~treasurer-of-state-who-shall-deposit-it-in-the-general-fund-of~~  
34 ~~the-state.~~ The director or a designee ~~and-the-treasurer-of~~  
35 ~~state~~ shall keep an accurate record of funds so retained;

1 ~~remitted and deposited.~~

2 Sec. 102. Section 252B.11, Code 1991, is amended to read  
3 as follows:

4 252B.11 RECOVERY OF COSTS OF COLLECTION SERVICES.

5 The unit may initiate necessary civil proceedings to  
6 recover the unit's costs of support collection services  
7 provided to an individual, whether or not the individual is a  
8 public assistance recipient, from an individual who owes and  
9 is able to pay a support obligation but willfully fails to pay  
10 the obligation. The unit may seek a lump sum recovery of the  
11 unit's costs or may seek to recover the unit's costs through  
12 periodic payments which are in addition to periodic support  
13 payments. If the unit's costs are recovered from an  
14 individual owing a support obligation, the costs shall not be  
15 deducted from the amount of support money received from the  
16 individual. ~~Seventy-percent-of-the~~ The costs collected  
17 pursuant to this section ~~may~~ shall be retained by the  
18 department for use by the unit ~~and thirty-percent shall be~~  
19 ~~remitted to the treasurer of state who shall deposit it in the~~  
20 ~~general fund of the state.~~ The director or a designee ~~and the~~  
21 ~~treasurer of state~~ shall keep an accurate record of funds so  
22 ~~retained, remitted, and deposited.~~

23 Sec. 103. Section 252D.1, subsection 2, Code 1991, is  
24 amended to read as follows:

25 2. If support payments ordered under ~~section 234.39,~~  
26 ~~section 252A.6, subsection 12, chapter 252C, section 598.21,~~  
27 ~~or section 675.25~~ chapter 232, 234, 252A, 252C, 252D, 252E,  
28 598, 675, or any other applicable chapter, or under a  
29 comparable statute of a foreign jurisdiction, as certified to  
30 the child support recovery unit established in section 252B.2,  
31 are not paid to the clerk of the district court or the  
32 collection services center pursuant to section 598.22 and  
33 become delinquent in an amount equal to the payment for one  
34 month, upon application of a person entitled to receive the  
35 support payments, the child support recovery unit or the

1 district court may enter an ex parte order notifying the  
2 person whose income is to be assigned, of the delinquent  
3 amount, of the amount of income or wages to be withheld, and  
4 of the procedure to file a motion to quash the order of  
5 assignment, and shall order an assignment of income and notify  
6 an employer, trustee, or other payor by certified regular  
7 mail, with proof of service completed according to rule of  
8 civil procedure 82, of the order of the assignment of income  
9 requiring the withholding of specified sums to be deducted  
10 from the delinquent person's periodic earnings, trust income,  
11 or other income sufficient to pay the support obligation and,  
12 except as provided in section 598.22, requiring the payment of  
13 such sums to the clerk of the district court or the collection  
14 services center. The assignment of income is binding on an  
15 existing or future employer, trustee, or other payor ten days  
16 after the receipt of the order ~~by-certified-mail~~. The amount  
17 of an assignment of income shall not exceed the amount  
18 specified in 15 U.S.C. § 1673(b). The assignment of income  
19 has priority over a garnishment or an assignment for a purpose  
20 other than the support of the dependents in the court order  
21 being enforced. The child support recovery unit or the  
22 district court, upon the application of any party, by ex parte  
23 order, may modify the assignment of income on the full payment  
24 of the delinquency or in an instance where the amount being  
25 withheld exceeds the amount specified in 15 U.S.C. § 1673(b),  
26 or may revoke the assignment of income upon the termination of  
27 parental rights, emancipation, death or majority of the child,  
28 or upon a change of custody.

29 Sec. 104. Section 252D.12, Code 1991, is amended to read  
30 as follows:

31 252D.12 NOTICE TO EMPLOYER OR INCOME PAYOR.

32 A notice of immediate income withholding shall be sent to  
33 the employer, trustee, or other payor by certified regular  
34 mail, with proof of service completed according to rule of  
35 civil procedure 82. The assignment of income is binding on an

1 existing or future employer, trustee, or other payor ten days  
2 after the receipt of the notice by-certified-mail.

3 Sec. 105. Section 252D.18, subsection 1, Code Supplement  
4 1991, is amended to read as follows:

5 1. The employer, trustee, or other payor who receives an  
6 order of assignment by-certified-mail-pursuant-to-section  
7 252B.17-subsection-3, or-subchapter-117, shall deliver, on the  
8 next working day, a copy of the order to the person named in  
9 the order.

10 a. The order of assignment shall be sent to the employer,  
11 trustee, or other payor by regular mail, with proof of service  
12 completed according to rule of civil procedure 82.

13 b. The payor may deduct not more than two dollars from  
14 each payment from the employee's wages as a reimbursement for  
15 the payor's costs relating to the assignment.

16 c. The payor's compliance with the order of assignment  
17 satisfies the payor's obligation to the person for the amount  
18 of income withheld and transmitted to the clerk of the  
19 district court or collection services center.

20 DIVISION II

21 Sec. 201. NEW SECTION. 252B.7A DETERMINING PARENT'S  
22 INCOME.

23 1. The unit shall use any of the following in determining  
24 the amount of the net monthly income of a parent for purposes  
25 of establishing or modifying a support obligation:

26 a. Income as identified in a signed statement of the  
27 parent pursuant to section 252B.9, subsection 1, paragraph  
28 "b". If evidence suggests that the statement is incomplete or  
29 inaccurate, the unit may present the evidence to the court in  
30 a judicial proceeding or to the administrator in a proceeding  
31 under chapter 252C, and the court or administrator shall weigh  
32 the evidence in setting the support obligation. Evidence  
33 includes but is not limited to income as established under  
34 paragraph "c".

35 b. If a sworn statement is not provided by the parent, the

1 unit may determine income as established under paragraph "c"  
2 or "d".

3 c. Income established by any of the following:

4 (1) Income verified by an employer or payor of income.

5 (2) Income reported to the department of employment  
6 services.

7 (3) For a public assistance recipient, income as reported  
8 to the department case worker assigned to the public  
9 assistance case.

10 (4) Other written documentation which identifies income.

11 d. The estimated state median income for a one-person  
12 family as published annually in the Federal Register for use  
13 by the federal office of community services, office of energy  
14 assistance, for the subsequent federal fiscal year.

15 (1) This provision is effective beginning July 1, 1992,  
16 based upon the information published in the Federal Register  
17 dated March 8, 1991.

18 (2) The unit may revise the estimated income each October  
19 1. If the estimate is not available or has not been  
20 published, the unit may revise the estimate when it becomes  
21 available.

22 e. When the income information obtained pursuant to this  
23 subsection does not include the information necessary to  
24 determine the net monthly income of the parent, the unit may  
25 deduct twenty percent from the parent's gross monthly income  
26 to arrive at the net monthly income figure.

27 2. The amount of the income determined may be challenged  
28 any time prior to the entry of a new or modified order for  
29 support.

30 3. If the child support recovery unit is providing  
31 services pursuant to chapter 252B, the court shall use the  
32 income figure determined pursuant to this section when  
33 applying the guidelines to determine the amount of support.

34 4. The department may develop rules as necessary to  
35 further implement disclosure of financial information of the



1 parties.

2 Sec. 202. Section 252C.3, subsection 1, paragraph a, Code  
3 1991, is amended by striking the paragraph and relettering the  
4 remaining paragraphs.

5 Sec. 203. Section 252C.3, subsection 1, paragraph b, Code  
6 1991, is amended to read as follows:

7 b. A computation-of-the-support-debt statement that the  
8 support obligation will be set pursuant to the child support  
9 guidelines established pursuant to section 598.21, subsection  
10 4, and the criteria established pursuant to section 252B.7A.

11 Sec. 204. Section 252C.4, subsection 1, Code 1991, is  
12 amended to read as follows:

13 1. A responsible person or the child support recovery unit  
14 may request a hearing regarding a determination of support.

15 If a timely written request for a hearing is received, the  
16 administrator shall certify the matter to the district court  
17 in the county in which the order has been filed, or if no such  
18 order has been filed, then to a district court in the county  
19 where the dependent child resides or, where the dependent  
20 child resides in another state, to the district court where  
21 the absent parent resides.

22 Sec. 205. NEW SECTION. 252C.12 WAIVER OF TIME  
23 LIMITATIONS BY RESPONSIBLE PERSON.

24 1. A responsible person may waive the time limitations  
25 established in section 252C.3.

26 2. Upon receipt of a signed statement from the responsible  
27 person waiving the time limitations established in section  
28 252C.3, the administrator may proceed to enter an order for  
29 support and the court may approve the order, whether or not  
30 the time limitations have expired.

31 3. If a responsible person waives the time limitations  
32 established in section 252C.3 and an order for support is  
33 entered under this chapter, the signed statement of the  
34 responsible person waiving the time limitations shall be filed  
35 with the order for support.

1 Sec. 206. Section 252D.9, Code 1991, is amended to read as  
2 follows:

3 252D.9 SUMS SUBJECT TO IMMEDIATE WITHHOLDING.

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

10 Sec. 207. NEW SECTION. 252D.23 FILING OF WITHHOLDING  
11 ORDER -- ORDER EFFECTIVE AS DISTRICT COURT ORDER.

12 An income withholding order entered by the child support  
13 recovery unit pursuant to this chapter shall be filed with the  
14 clerk of the district court. Upon filing, the withholding  
15 order shall have all the force, effect, and attributes of a  
16 docketed order of the district court including, but not  
17 limited to, availability of contempt of court proceedings  
18 against an employer, trustee, or other payor for  
19 noncompliance.

20 Sec. 208. Section 421.17, subsection 29, unnumbered  
21 paragraph 1, Code Supplement 1991, is amended to read as  
22 follows:

23 To establish and maintain a procedure to set off against  
24 any claim owed to a person by a state agency any liability of  
25 that person owed to a state agency or a support debt being  
26 enforced by the child support recovery unit pursuant to  
27 chapter 252B, except the setoff procedures provided for in  
28 subsections 21, 23, and 25. The procedure shall only apply  
29 when at the discretion of the director it is feasible. The  
30 procedure shall meet the following conditions:

31 Sec. 209. Section 642.2, Code 1991, is amended by adding  
32 the following new subsection 4 and renumbering the subsequent  
33 subsection:

34 NEW SUBSECTION. 4. Notwithstanding subsections 3 and 6,  
35 any moneys owed to the child support obligor by the state and

1 payments owed to the child support obligor through the Iowa  
2 public employees' retirement system are subject to  
3 garnishment, attachment, execution, or assignment by the child  
4 support recovery unit if the child support recovery unit is  
5 providing enforcement services pursuant to chapter 252B.

6 Sec. 210. Section 675.41, Code 1991, is amended by strik-  
7 ing the section and inserting in lieu thereof the following:

8 675.41 BLOOD AND GENETIC TESTS.

9 1. In a proceeding to establish paternity in law or in  
10 equity the court may on its own motion, and upon request of a  
11 party shall, require the child, mother, and alleged father to  
12 submit to blood or genetic tests.

13 2. If a blood or genetic test is required, the court shall  
14 direct that inherited characteristics, including but not  
15 limited to blood types, be determined by appropriate testing  
16 procedures, and shall appoint an expert qualified as an  
17 examiner of genetic markers to analyze and interpret the  
18 results and to report to the court.

19 3. Verified documentation of the chain of custody of the  
20 blood specimen is competent evidence to establish the chain of  
21 custody. The testimony of the court-appointed expert at trial  
22 is not required.

23 4. A verified expert's report shall be admitted at trial.

24 5. The results of the tests shall have the following  
25 effects:

26 a. Test results which show a statistical probability of  
27 paternity are admissible.

28 b. If the expert concludes that the test results show that  
29 the alleged father is not excluded and that the probability of  
30 the alleged father's paternity is ninety-five percent or  
31 higher, there shall be a rebuttable presumption that the  
32 alleged father is the father, and this evidence must be  
33 admitted.

34 (1) To challenge this presumption of paternity, a party  
35 must file a notice of the challenge with the court within

1 twenty days of the filing of the expert's report with the  
2 clerk of the district court.

3 (2) The party challenging the presumption of the alleged  
4 father's paternity has the burden of proving that the alleged  
5 father is not the father of the child.

6 (3) The presumption of paternity can be rebutted only by  
7 clear and convincing evidence.

8 c. If the expert concludes that the test results show that  
9 the alleged father is not excluded and that the probability of  
10 the alleged father's paternity is less than ninety-five  
11 percent, test results shall be weighed along with other  
12 evidence of the alleged father's paternity. To challenge the  
13 test results, a party must file a notice of the challenge with  
14 the court within twenty days of the filing of the expert's  
15 report with the clerk of the district court.

16 6. If the results of the tests or the expert's analysis of  
17 inherited characteristics is disputed, the court, upon  
18 reasonable request of a party, shall order that an additional  
19 test be made by the same laboratory or an independent  
20 laboratory at the expense of the party requesting additional  
21 testing.

22 7. The presumption of legitimacy of a child born during  
23 wedlock is overcome if the court finds that the conclusion of  
24 the expert, as disclosed by the evidence based upon the tests,  
25 shows that the husband is not the parent of the child, and a  
26 modification of the paternity finding would meet the  
27 requirements of section 598.21, subsection 8, paragraph "k".

28 8. Notwithstanding section 598.21, subsection 8, paragraph  
29 "k", the presumption of paternity of a child when paternity is  
30 established in the absence of blood or genetic testing is  
31 overcome if, at any time subsequent to such establishment, the  
32 court finds that the conclusion of the expert as disclosed by  
33 the evidence based upon the tests shows that the established  
34 father is not the father of the child. If the presumption is  
35 overcome, the established father is relieved of all future

1 support obligations owed the child.

2 9. All costs shall be paid by the parties or parents in  
3 proportions and at times determined by the court.

4 DIVISION III

5 Sec. 301. Section 232.147, Code 1991, is amended by adding  
6 the following new subsections:

7 NEW SUBSECTION. 7. The clerk of the district court shall  
8 enter information from the juvenile record on the judgment  
9 docket and lien index, but only as necessary to record support  
10 judgments.

11 NEW SUBSECTION. 8. The state agency designated to enforce  
12 support obligations may release information as necessary in  
13 order to meet statutory responsibilities.

14 Sec. 302. NEW SECTION. 232.4 JURISDICTION.

15 Notwithstanding any other provision of this chapter, and  
16 for the purposes of establishing a parental liability obli-  
17 gation for a child under the jurisdiction of the juvenile  
18 court, the court shall establish a support obligation pursuant  
19 to section 234.39 or the department shall establish a support  
20 obligation pursuant to chapter 252C, provided that a support  
21 obligation has not previously been established under an order  
22 of the district court or chapter 252C.

23 Sec. 303. Section 234.39, subsections 1 and 2, Code 1991,  
24 are amended to read as follows:

25 1. For an individual to whom section 234.35, subsection 2,  
26 4, or 5, is applicable, a dispositional order of the juvenile  
27 court requiring the provision of foster care, or an  
28 administrative order entered pursuant to chapter 252C, shall  
29 establish, after notice and a reasonable opportunity to be  
30 heard is provided to a parent or guardian, the amount of the  
31 parent's or guardian's support obligation for the cost of  
32 foster care provided by the department, if a support  
33 obligation has not previously been established under an order  
34 of the district court or court of comparable jurisdiction in  
35 another state or pursuant to chapter 252C. The court, or the

1 department of human services in establishing support by  
2 administrative order, shall establish the amount of the  
3 parent's or guardian's support obligation and the amount of  
4 support debt accrued and accruing in accordance with the child  
5 support guidelines prescribed under section 598.21, subsection  
6 4. However, the court, or the department of human services in  
7 establishing support by administrative order, may adjust  
8 deviate from the prescribed obligation after considering a  
9 recommendation by the department for expenses related to goals  
10 and objectives of a case permanency plan as defined under  
11 section 237.15, and upon written findings of fact which  
12 specify the reason for deviation and the prescribed guidelines  
13 amount. ~~The order~~ Any order for support shall direct the  
14 payment of the support obligation to the collection services  
15 center for the use of the department's foster care recovery  
16 unit. The order shall be filed with the clerk of the district  
17 court in which the responsible parent or guardian resides and  
18 has the same force and effect as a judgment when entered in  
19 the judgment docket and lien index. The collection services  
20 center shall disburse the payments pursuant to the order and  
21 enter record the disbursements ~~in-a-record-book~~. If payments  
22 are not made as ordered, the child support recovery unit shall  
23 may certify a default to the court and the court may, on its  
24 own motion, proceed under section 598.22 or 598.23 or the  
25 child support recovery unit may enforce the judgment as  
26 allowed by law. An order entered under this subsection may be  
27 modified only in accordance with the guidelines prescribed  
28 under section 598.21, subsection 8.

29 2. For an individual served by the department of human  
30 services under section 234.35, subsection 3, the department  
31 shall determine the obligation of the individual's parent or  
32 guardian pursuant to chapter 252C and in accordance with the  
33 child support guidelines prescribed under section 598.21,  
34 subsection 4. However, the department may adjust the  
35 prescribed obligation for expenses related to goals and

1 objectives of a case permanency plan as defined under section  
2 237.15. An obligation determined under this subsection may be  
3 modified only in accordance with conditions under section  
4 598.21, subsection 8.

5 Sec. 304. Section 234.39, Code 1991, is amended by adding  
6 the following new subsection:

7 NEW SUBSECTION. 3. A person entitled to periodic support  
8 payments pursuant to an order or judgment entered in any  
9 action for support, who also is or has a child receiving  
10 foster care services, is deemed to have assigned to the  
11 department current and accruing support payments attributable  
12 to the child effective as of the date the child enters foster  
13 care placement, to the extent of expenditure of foster care  
14 funds. The department shall notify the clerk of the district  
15 court when a child entitled to support payments is receiving  
16 foster care services pursuant to chapter 234. Upon  
17 notification by the department that a child entitled to  
18 periodic support payments is receiving foster care services,  
19 the clerk of the district court shall make a notation of the  
20 automatic assignment in the judgment docket and lien index.  
21 The notation constitutes constructive notice of assignment.  
22 The clerk of court shall furnish the department with copies of  
23 all orders and decrees awarding support when the child is  
24 receiving foster care services. At the time the child ceases  
25 to receive foster care services, the assignment of support  
26 shall be automatically terminated. Unpaid support accrued  
27 under the assignment of support rights during the time that  
28 the child was in foster care remains due to the department up  
29 to the amount of unreimbursed foster care funds expended. The  
30 department shall notify the clerk of court of the automatic  
31 termination of the assignment.

32 DIVISION IV

33 Sec. 401. Section 252C.2, subsections 2 and 3, Code 1991,  
34 are amended to read as follows:

35 2. The payment of public assistance to or for the benefit

1 of a dependent child or a dependent child's caretaker creates  
2 a support debt due and owing to the department by the  
3 responsible person in an amount equal to the public assistance  
4 payment, except that the support debt is limited to the amount  
5 of a support obligation established by court order or by the  
6 administrator. If a court order has not been entered in Iowa,  
7 or if an order does not address accrued support owed to the  
8 state for public assistance expended, the administrator may  
9 establish a support debt,--both as to amounts accrued and  
10 accruing, pursuant to section 598.21, subsection 4. However,  
11 a support debt is not created in favor of the department  
12 against a responsible person for the period during which the  
13 responsible person is a recipient on the person's own behalf  
14 of public assistance for the benefit of the dependent child or  
15 the dependent child's caretaker.

16 3. The provision of child support collection or paternity  
17 determination services under chapter 252B to an individual,  
18 even though the individual is ineligible for public  
19 assistance, creates a support debt due and owing to the  
20 individual or the individual's child or ward by the  
21 responsible person in the amount of a support obligation  
22 established by court order or by the administrator. If a  
23 court order has not been entered in Iowa, the administrator  
24 may establish a support debt in favor of the individual or the  
25 individual's child or ward and against the responsible person,  
26 both as to amounts accrued and accruing, pursuant to section  
27 598.21, subsection 4.

28 Sec. 402. Section 252C.2, Code 1991, is amended by adding  
29 the following new subsection 4 and renumbering the subsequent  
30 subsection:

31 NEW SUBSECTION. 4. The payment of medical assistance  
32 pursuant to chapter 249A for the benefit of a dependent child  
33 or a dependent child's caretaker creates a support debt due  
34 and owing to the department. If a court order has not been  
35 entered in Iowa, or if an administrative order or a court



1 order entered in Iowa does not require provision of medical  
2 support pursuant to chapter 252E, or equivalent medical  
3 support, the administrator may establish an order for medical  
4 support.

5 Sec. 403. Section 252C.3, subsection 1, unnumbered para-  
6 graph 1, Code 1991, is amended to read as follows:

7 ~~In the absence of a court order, or if an administrative~~  
8 ~~order exists which does not require provision of medical~~  
9 ~~support as defined in chapter 252E or equivalent medical~~  
10 ~~support, the~~ The administrator may issue a notice establishing  
11 ~~and demanding~~ stating the intent to secure an order for either  
12 payment of medical support established as defined in chapter  
13 252E or payment of an accrued or accruing support debt due and  
14 owed to the department or an individual under section 252C.2,  
15 or both. The notice shall be served upon the responsible  
16 person in accordance with the rules of civil procedure. The  
17 notice shall include all of the following:

18 Sec. 404. Section 252D.20, Code 1991, is amended to read  
19 as follows:

20 252D.20 ADMINISTRATION OF INCOME WITHHOLDING PROCEDURES.

21 The child support recovery unit is designated as the entity  
22 of the state to administer income withholding in accordance  
23 with the procedures specified for keeping adequate records to  
24 document, track, and monitor support payments on cases subject  
25 to Title IV-D of the federal Social Security Act. The clerks  
26 of the district court are designated as the entities for  
27 administering income withholding on cases which are not  
28 subject to Title IV-D. Notwithstanding section 622.53, in  
29 cases where the court or the child support recovery unit is  
30 enforcing a foreign judgment through income withholding, a  
31 certified copy of the underlying judgment is sufficient proof  
32 of authenticity.

33 Sec. 405. Section 598.21, subsection 4, unnumbered  
34 paragraph 1, Code 1991, is amended to read as follows:

35 The supreme court ~~is authorized to prescribe~~ shall maintain

1 uniform child support guidelines and criteria ~~to be effective~~  
2 ~~October 12, 1989~~, and to review the guidelines and criteria at  
3 least once every four years, pursuant to the federal Family  
4 Support Act of 1988, Pub. L. No. 100-485. The initial review  
5 shall be performed within four years of October 12, 1989, and  
6 subsequently within the four-year period of the most recent  
7 review.

8 Sec. 406. Section 598.21, subsection 9, Code 1991, is  
9 amended to read as follows:

10 9. Notwithstanding subsection 8, a substantial change of  
11 circumstances exists when the court order for child support  
12 ~~deviates from the~~ by twenty percent or more from the amount  
13 which would be due pursuant to the most current child support  
14 guidelines established pursuant to section 598.21, subsection  
15 4. A substantial change of circumstances also exists when the  
16 court order for child support deviates from the guidelines for  
17 a reason other than that stated in the original order, unless  
18 the provisions of for deviation as provided by the guidelines  
19 themselves have changed since the entry or subsequent  
20 modification of the original order. Upon application for a  
21 modification of an order for child support where services are  
22 being received pursuant to chapter 252B, the court shall act  
23 in accordance with set the amount of child support based upon  
24 the most current child support guidelines established pursuant  
25 to section 598.21, subsection 4. The child support recovery  
26 unit shall, in submitting an application for modification of  
27 an order for support, employ additional criteria and  
28 procedures for the review and adjustment of support awards as  
29 established by rule.

30 DIVISION V

31 Sec. 501. Section 97B.39, Code 1991, is amended to read as  
32 follows:

33 97B.39 RIGHTS NOT TRANSFERABLE -- NOT SUBJECT TO LEGAL  
34 PROCESS.

35 The right of any person to any future payment under this

1 chapter is not transferable or assignable, at law or in  
2 equity, and the moneys paid or payable or rights existing  
3 under this chapter are not subject to execution, levy,  
4 attachment, garnishment, or other legal process, or to the  
5 operation of any bankruptcy or insolvency law except for the  
6 purposes of enforcing child, spousal, or medical support  
7 obligations. For the purposes of enforcing child, spousal, or  
8 medical support obligations, the garnishment or attachment of  
9 or the execution against compensation due a person under  
10 chapter 97B shall not exceed the amount specified in 15 U.S.C.  
11 § 1673(b).

12 Sec. 502. Section 252B.5, subsections 2, 3, and 5, Code  
13 1991, are amended to read as follows:

14 2. Aid in establishing paternity and securing a court  
15 order for support pursuant to chapter 252A or 675.

16 3. Aid in enforcing through court or administrative  
17 proceedings an existing court order for support issued  
18 pursuant to chapters chapter 252A, 252C, 598, and or 675, or  
19 any other chapter under which child or medical support is  
20 granted.

21 5. Determine periodically whether an individual receiving  
22 unemployment compensation benefits under chapter 96 owes a  
23 support obligation which is being enforced by the unit, and  
24 enforce the support obligation through court or administrative  
25 proceedings in-the-absence-of-a-voluntary-agreement-by-the  
26 individual to have specified amounts withheld from the  
27 individual's unemployment compensation benefits.

28 Sec. 503. Section 252C.5, Code 1991, is amended to read as  
29 follows:

30 252C.5 FILING AND DOCKETING OF FINANCIAL RESPONSIBILITY  
31 ORDER -- ORDER EFFECTIVE AS DISTRICT COURT DECREE.

32 A true copy of any order entered by the administrator  
33 pursuant to this chapter, along with a true copy of the return  
34 of service, if applicable, may be filed in the office of the  
35 clerk of the district court in the county in which the

1 dependent child resides or, where the dependent child resides  
2 in another state, in the office of the district court in the  
3 county in which the absent parent resides. ~~Upon filing, the~~  
4 ~~clerk shall enter the order in the judgment docket, and the~~  
5 1. The administrator's order shall be presented, ex parte,  
6 to the district court for review and approval, ~~and unless.~~  
7 Unless defects appear on the face of the order or on the  
8 attachments, the district court shall approve the order, ~~and~~  
9 the. The approved order shall have all the force, effect, and  
10 attributes of a docketed order or decree of the district  
11 court.

12 2. Upon filing, the clerk shall enter the order in the  
13 judgment docket.

14 Sec. 504. Section 252E.1, subsection 1, Code 1991, is  
15 amended to read as follows:

16 1. "Child" means a person for whom child or medical  
17 support may be ordered pursuant to chapter 234, 239, 252A,  
18 252C, 598, or 675 or any other chapter of the Code or pursuant  
19 to a comparable statute of a foreign jurisdiction.

20 Sec. 505. Section 252E.2, Code 1991, is amended to read as  
21 follows:

22 252E.2 ORDER FOR MEDICAL SUPPORT.

23 The entry of an order, pursuant to chapter 234, 252A, 252C,  
24 598, or 675 or any other chapter of the Code or pursuant to a  
25 comparable statute of a foreign jurisdiction, requiring the  
26 provision of coverage under a health benefit plan is  
27 authorization for enrollment of the dependent if the dependent  
28 is otherwise eligible to be enrolled. The dependent's  
29 eligibility and enrollment for coverage under such a plan  
30 shall be governed by all applicable terms and conditions,  
31 including, but not limited to, eligibility and insurability  
32 standards. The dependent, if eligible, shall be provided the  
33 same coverage as the obligor.

34 Sec. 506. Section 421.17, subsection 21, Code Supplement  
35 1991, is amended to read as follows:

1 21. To establish and maintain a procedure to set off  
2 against a debtor's income tax refund or rebate any debt, which  
3 is assigned to the department of human services, which the  
4 child support recovery unit is attempting to collect on behalf  
5 of an individual not eligible as a public assistance  
6 recipient, or which the foster care recovery unit of the  
7 department of human services is attempting to collect on  
8 behalf of a child receiving foster care provided by the  
9 department of human services.

10 a. This includes any of the following:

11 (1) Any debt which has accrued through written contract,  
12 subrogation, or court judgment and which is in the form of a  
13 liquidated sum due and owing for the care, support or  
14 maintenance of a child or.

15 (2) Any debt which has accrued through a court judgment  
16 which is due and owing as a support obligation for the  
17 debtor's spouse or former spouse when enforced in conjunction  
18 with a child support obligation.

19 (3) Any debt which is owed to the state for public  
20 assistance overpayments to recipients or to providers of  
21 services to recipients which the investigations division of  
22 the department of inspections and appeals is attempting to  
23 collect on behalf of the state. For purposes of this  
24 subsection, "public assistance" means aid to dependent  
25 children, medical assistance, food stamps, foster care, and  
26 state supplementary assistance.

27 b. The procedure shall meet the following conditions:

28 a- (1) Before setoff all outstanding tax liabilities  
29 collectible by the department of revenue and finance shall be  
30 satisfied except that no portion of a refund or rebate shall  
31 be credited against tax liabilities which are not yet due.

32 b- (2) Before setoff the child support recovery unit  
33 established pursuant to section 252B.2, the foster care  
34 recovery unit, and the investigations division of the  
35 department of inspections and appeals shall obtain and forward

1 to the department of revenue and finance the full name and  
2 social security number of the debtor. The department of  
3 revenue and finance shall co-operate in the exchange of  
4 relevant information with the child support recovery unit as  
5 provided in section 252B.9, with the foster care recovery  
6 unit, and with the investigations division of the department  
7 of inspections and appeals. However, only relevant  
8 information required by the child support unit, by the foster  
9 care recovery unit, or by the investigations division of the  
10 department of inspections and appeals shall be provided by the  
11 department of revenue and finance. The information shall be  
12 held in confidence and shall be used for purposes of setoff  
13 only.

14 c- (3) The child support recovery unit, the foster care  
15 recovery unit, and the investigations division of the  
16 department of inspections and appeals shall, at least  
17 annually, submit to the department of revenue and finance for  
18 setoff the debts described in this subsection, which are at  
19 least fifty dollars, on a date to be specified by the  
20 department of human services and the department of inspections  
21 and appeals by rule.

22 d- (4) Upon submission of a claim the department of  
23 revenue and finance shall notify the child support recovery  
24 unit, the foster care recovery unit, or the investigations  
25 division of the department of inspections and appeals as to  
26 whether the debtor is entitled to a refund or rebate and if so  
27 entitled shall notify the unit or division of the amount of  
28 the refund or rebate and of the debtor's address on the income  
29 tax return.

30 e- (5) Upon notice of entitlement to a refund or rebate  
31 the child support recovery unit, the foster care recovery  
32 unit, or the investigations division of the department of  
33 inspections and appeals shall send written notification to the  
34 debtor, and a copy of the notice to the department of revenue  
35 and finance, of the unit's or division's assertion of its

1 rights, or the rights of the department of human services, or  
2 the rights of an individual not eligible as a public  
3 assistance recipient to all or a portion of the debtor's  
4 refund or rebate and the entitlement to recover the debt  
5 through the setoff procedure, the basis of the assertion, the  
6 opportunity to request that a joint income tax refund or  
7 rebate be divided between spouses, the debtor's opportunity to  
8 give written notice of intent to contest the claim, and the  
9 fact that failure to contest the claim by written application  
10 for a hearing will result in a waiver of the opportunity to  
11 contest the claim, causing final setoff by default. Upon  
12 application filed with the department of human services within  
13 fifteen days from the mailing of the notice of entitlement to  
14 a refund or rebate, the department of human services shall  
15 grant a hearing pursuant to chapters 10A and 17A. An appeal  
16 taken from the decision of an administrative law judge and  
17 subsequent appeals shall be taken pursuant to chapter 17A.

18 f- (6) Upon the request of a debtor or a debtor's spouse  
19 to the child support recovery unit, the foster care recovery  
20 unit, or the investigations division of the department of  
21 inspections and appeals, filed within fifteen days from the  
22 mailing of the notice of entitlement to a refund or rebate,  
23 and upon receipt of the full name and social security number  
24 of the debtor's spouse, the unit or division shall notify the  
25 department of revenue and finance of the request to divide a  
26 joint income tax refund or rebate. The department of revenue  
27 and finance shall upon receipt of the notice divide a joint  
28 income tax refund or rebate between the debtor and the  
29 debtor's spouse in proportion to each spouse's net income as  
30 determined under section 422.7.

31 g- (7) The department of revenue and finance shall, after  
32 notice has been sent to the debtor by the child support  
33 recovery unit, the foster care recovery unit, or the  
34 investigations division of the department of inspections and  
35 appeals, set off the debt against the debtor's income tax

1 refund or rebate. However, if a debtor has made all current  
2 child support or foster care payments in accordance with a  
3 court order or an assessment of foster care liability for the  
4 twelve months preceding the proposed setoff and has regularly  
5 made delinquent child support or foster care payments during  
6 those twelve months, the child support or foster care recovery  
7 unit shall notify the department of revenue and finance not to  
8 set off the debt against the debtor's income tax refund or  
9 rebate. If a debtor has made all current repayment of public  
10 assistance in accordance with a court order or voluntary  
11 repayment agreement for the twelve months preceding the  
12 proposed setoff and has regularly made delinquent payments  
13 during those twelve months, the investigations division of the  
14 department of inspections and appeals shall notify the  
15 department of revenue and finance not to set off the debt  
16 against the debtor's income tax refund or rebate. The  
17 department of revenue and finance shall refund any balance of  
18 the income tax refund or rebate to the debtor. The department  
19 of revenue and finance shall periodically transfer the amount  
20 set off to the child support recovery unit, the foster care  
21 recovery unit, or the investigations division of the  
22 department of inspections and appeals. If the debtor gives  
23 timely written notice of intent to contest the claim the  
24 department of revenue and finance shall hold the refund or  
25 rebate until final disposition of the contested claim pursuant  
26 to chapter 17A or by court judgment. The child support  
27 recovery unit, the foster care recovery unit, or the  
28 investigations division of the department of inspections and  
29 appeals shall notify the debtor in writing upon completion of  
30 setoff.

31 Sec. 507. Section 598.21, subsection 4, paragraph a,  
32 unnumbered paragraph 2, Code 1991, is amended to read as  
33 follows:

34 ~~Until such time as the supreme court incorporates the~~  
35 ~~provision of medical support in the guidelines as required by~~



1 paragraph-"c"-the The court shall order as child medical  
2 support a health benefit plan as defined in chapter 252E if  
3 available to either parent at a reasonable cost. A health  
4 benefit plan is considered reasonable in cost if it is  
5 employment-related or other group health insurance, regardless  
6 of the service delivery mechanism. The premium cost of the  
7 health benefit plan may be considered by the court as a reason  
8 for varying from the child support guidelines. If a health  
9 benefit plan is not available at a reasonable cost, the court  
10 may order any other provisions for medical support as defined  
11 in chapter 252E.

12 Sec. 508. Section 598.21, subsection 4, Code 1991, is  
13 amended by adding the following new paragraph:

14 NEW PARAGRAPH. d. For purposes of calculating a support  
15 obligation under this section, the income of the parent from  
16 whom support is sought shall be used as the noncustodial  
17 parent income for purposes of application of the guidelines,  
18 regardless of the legal custody of the child.

19 Sec. 509. Section 627.13, Code 1991, is amended to read as  
20 follows:

21 627.13 WORKERS' COMPENSATION.

22 Any compensation due or that may become due an employee or  
23 dependent under ~~the provisions of~~ chapter 85 shall be is  
24 exempt from garnishment, attachment, ~~and execution, and~~  
25 assignment of income, except for the purposes of enforcing  
26 child, spousal, or medical support obligations. For the  
27 purposes of enforcing child, spousal, or medical support  
28 obligations, the garnishment or attachment of or the execution  
29 against compensation due an employee or dependent under  
30 chapter 85 shall be limited as specified in 15 U.S.C. §  
31 1673(b).

32  
33  
34  
35

## SENATE FILE 2316

H-5698

1 Amend Senate File 2316, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 4, by inserting after line 20, the  
4 following:

5 "Sec. \_\_\_\_\_. Section 252B.5, Code 1991, is amended  
6 by adding the following new subsection:

7 NEW SUBSECTION. 8. Provide an opportunity for  
8 hearing pursuant to chapter 17A for assistance and  
9 nonassistance cases. Hearings shall be available when  
10 support is established under chapter 252C and when a  
11 mistake of fact is alleged during the administrative  
12 enforcement procedure."

13 2. Page 6, lines 5 and 6, by striking the words  
14 and figure "paragraph b, Code 1991, is" and inserting  
15 the following: "paragraphs b and g, Code 1991, are".

16 3. Page 6, by inserting after line 10, the  
17 following:

18 "g. A statement that if a timely written request  
19 for a hearing is received by the office of the child  
20 support recovery unit which issued the notice, the  
21 responsible person shall have the right to a hearing  
22 ~~to-be-held-in-district-court~~ pursuant to chapter 17A;  
23 and that if no timely written response is received,  
24 the administrator may enter an order in accordance  
25 with the notice and finding of financial  
26 responsibility for child support or medical support,  
27 or both.

28 Sec. \_\_\_\_\_. Section 252C.3, subsection 3, Code 1991,  
29 is amended to read as follows:

30 3. If a timely written response setting forth  
31 objections and requesting a hearing is received by the  
32 appropriate office of the child support recovery unit,  
33 a hearing shall be held ~~in-district-court~~ pursuant to  
34 chapter 17A."

35 4. Page 6, by striking lines 11 through 21.

36 5. Page 7, by inserting after line 30 the  
37 following:

38 "Sec. \_\_\_\_\_. Section 598.21, subsection 4, paragraph  
39 b, Code 1991, is amended to read as follows:

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

49 6. Page 10, by inserting after line 3, the  
50 following:

H-5698

H-5698

Page 2

1 "Sec. \_\_\_\_ . Section 252C.4, Code 1991, is  
2 repealed."

3 7. By renumbering as necessary.

By BEATTY of Warren

H-5698 FILED APRIL 2, 1992

*Adopted 4/14 (p 1357)*

## SENATE FILE 2316

H-5699

1 Amend Senate File 2316, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking line 25 and inserting the  
4 following:

5 "b. The application fee and if the additional fee  
6 for services has been charged to the obligor and made  
7 a part of the obligor's support obligation, the fee".

By MURPHY of Dubuque

H-5699 FILED APRIL 2, 1992

*Adopted 4/14 (p 1354)*

## SENATE FILE 2316

H-5681

1 Amend Senate File 2316 as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 16, by inserting after line 11 the  
4 following:

5 "Sec. \_\_\_\_ . Section 252B.1, subsection 1, Code  
6 Supplement 1991, is amended to read as follows:

7 1. "Child" includes but shall not be limited to a  
8 stepchild, foster child or legally adopted child and  
9 means a child actually or apparently under eighteen  
10 years of age, and a dependent person eighteen years of  
11 age or over who is unable to maintain the person's  
12 self and is likely to become a public charge. "Child"  
13 includes "dependent children" as defined in section  
14 239.17-subsection-3."

15 2. By renumbering as necessary.

By NIELSEN of Linn

H-5681 FILED APRIL 2, 1992

*Adopted 4/14 (p 1357)*

## SENATE FILE 2316

H-5697

1 Amend the amendment, H-5568, to Senate File 2316,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, by striking lines 44 through 46 and  
5 inserting the following: "Wisconsin and New York.  
6 The department shall explore the availability of  
7 public and private funding sources for developing and  
8 implementing a minimum child support payment plan in  
9 the state. The department shall submit the plan to  
10 the".

By HAVERLAND of Polk

H-5697 FILED APRIL 2, 1992

*Adopted 4/14 (p 1358)*

SENATE FILE 2316

H-5475

1 Amend Senate File 2316, as amended, passed, and  
 2 reprinted by the Senate, as follows:  
 3 1. Page 22, by inserting after line 18, the  
 4 following:  
 5 "Sec. \_\_\_\_ . NEW SECTION. 598.23A CONTEMPT  
 6 PROCEEDINGS FOR PROVISIONS OF SUPPORT PAYMENTS.  
 7 1. If a person against whom an order or decree for  
 8 support has been entered pursuant to this chapter or  
 9 chapter 234, 252A, 252C, 675, or any other support  
 10 chapter, or a comparable chapter of a foreign  
 11 jurisdiction, fails to make payments or provide  
 12 medical support pursuant to that order or decree, the  
 13 person may be cited and punished by the court for  
 14 contempt.  
 15 2. If the person is cited for contempt, the court  
 16 may order that, if the person has available consumer  
 17 credit including credit cards, consumer loans, or  
 18 other sources of credit, the person shall use the  
 19 consumer credit to pay the full amount of the  
 20 arrearages or so much of the arrearages as the  
 21 limitations of the consumer credit source allows."  
 22 2. By renumbering as necessary.

By BISIGNANO of Polk

H-5475 FILED MARCH 24, 1992

*(Handwritten note: 4/14/92 1389)*

SENATE FILE 2316

H-5574

1 Amend Senate File 2316, as amended, passed, and  
 2 reprinted by the Senate, as follows:  
 3 1. Page 15, by inserting after line 7 the  
 4 following:  
 5 "Sec. \_\_\_\_ . Section 598.21, subsection 8,  
 6 unnumbered paragraph 3, Code 1991, is amended to read  
 7 as follows:  
 8 Judgments for child support or child support awards  
 9 entered pursuant to this chapter, chapter 234, 252A,  
 10 252C, 675, or any other chapter of the Code which are  
 11 subject to a modification proceeding may be  
 12 retroactively modified only from the date the notice  
 13 of the pending petition for modification is served on  
 14 the opposing party. However, upon proof that the  
 15 child's residence has been changed for a period of at  
 16 least six months prior to the date of notice of the  
 17 pending petition for modification, the court may  
 18 retroactively modify the judgment or award for a  
 19 period of up to six months prior to the date of  
 20 notice."  
 21 2. By renumbering as necessary.

By LUNDBY of Linn

H-5574 FILED MARCH 27, 1992

*(Handwritten note: 4/14/92 1387)*

## SENATE FILE 2316

H-5473

1 Amend Senate File 2316, as amended, passed and  
2 reprinted by the Senate, as follows:

3 1. Page 22, by inserting after line 18 the  
4 following:

5 "Sec. \_\_\_\_ . NEW SECTION. 598.23A CONTEMPT  
6 PROCEEDINGS FOR PROVISIONS OF SUPPORT PAYMENTS.

7 1. If a person against whom an order or decree for  
8 support has been entered pursuant to this chapter or  
9 chapter 234, 252A, 252C, 675, or any other support  
10 chapter, or a comparable chapter of a foreign  
11 jurisdiction, fails to make payments or provide  
12 medical support pursuant to that order or decree, the  
13 person may be cited and punished by the court for  
14 contempt.

15 2. If a person is cited for contempt, the court  
16 may require the posting of a cash bond, within seven  
17 calendar days, in an amount equivalent to the current  
18 arrearages and an additional amount which is  
19 equivalent to at least twelve months of future support  
20 obligations.

21 3. If the arrearages are not paid within three  
22 months of the hearing, the bond shall be automatically  
23 forfeited to cover payment of the full portion of the  
24 arrearages and the portion of the bond representing  
25 future support obligations shall be automatically  
26 forfeited to cover future support payments as they  
27 become due."

28 2. By renumbering as necessary.

By BISIGNANO of Polk

H-5473 FILED MARCH 24, 1992

*Amended as amended by 5927 April 1992*

SENATE FILE 2316

H-5610

1 Amend Senate File 2316, as amended, passed, and  
2 reprinted by the Senate, as follows:  
3 1. Page 1, line 14, by inserting after the word  
4 "dollars" the following: "which shall be charged to  
5 and collected from the obligor".

By MURPHY of Dubuque

H-5610 FILED MARCH 31, 1992

*4/1/92 (4/1/92)*

## SENATE FILE 2316

H-5568

1 Amend Senate File 2316, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. By striking page 9, line 28, through page 10,  
4 line 1.

5 2. Page 15, by striking lines 10 through 29, and  
6 inserting the following:

7 "9. Notwithstanding subsection 8, a substantial  
8 change of circumstances exists when the court order  
9 for child support deviates from the by twenty percent  
10 or more from the amount which would be due pursuant to  
11 the most current child support guidelines established  
12 pursuant to section 598.21, subsection 4 for a reason  
13 other than that stated in the original order, unless  
14 the provisions of the guidelines themselves have  
15 changed since the entry or subsequent modification of  
16 the original order. Upon application for a  
17 modification of an order for child support where  
18 services are being received pursuant to chapter 2523,  
19 the court shall act in accordance with section 598.21,  
20 set the amount of child support based upon the most  
21 current child support guidelines established pursuant  
22 to subsection 4. The child support recovery unit  
23 shall, in submitting an application for modification  
24 of an order for support, employ additional criteria  
25 and procedures for the review and adjustment of  
26 support awards, as established by rule."

27 3. Page 22, by inserting after line 31, the  
28 following:

29 "Sec. \_\_\_\_ MINIMUM CHILD SUPPORT PAYMENT PLAN.  
30 The department of human services shall develop a plan  
31 in accordance with this section to provide minimum  
32 child support payments in place of welfare payments.  
33 The plan shall include a process to establish a  
34 minimum child support payment amount for a child in  
35 this state. The plan shall provide for wage  
36 withholding to collect child support payments from  
37 obligors based on ability to pay. If the obligor's  
38 child support obligation is less than the minimum  
39 child support payment amount, state funds in the  
40 amount of the difference would be used to pay the  
41 minimum child support payment amount. In developing  
42 the plan, the department shall analyze the efforts of  
43 other states to develop this type of system, including  
44 Wisconsin and New York. The plan shall include a  
45 proposal for implementation of a pilot project in  
46 fiscal year 1993-1994 and shall be submitted to the  
47 general assembly and the governor on or before  
48 February 1, 1993."

49 4. By renumbering as necessary.

By COMMITTEE ON HUMAN RESOURCES  
HAVERLAND of Polk, Chairperson

H-5568 FILED MARCH 27, 1992

*Adopted by the Senate on March 27, 1992*  
*Adopted by the Assembly on March 27, 1992*

SENATE FILE 2316

H-5711

- 1 Amend Senate File 2316 as amended, passed, and
- 2 reprinted by the Senate, as follows:
- 3 1. Page 5, by striking line 2 and inserting the
- 4 following: ", and if information under paragraph "c"
- 5 is not available, income may be determined under
- 6 paragraph "d"."
- 7 2. Page 5, by striking lines 11 through 21 and
- 8 inserting the following:
- 9 "d. The estimated income which could be earned
- 10 through full-time employment at the prevailing minimum
- 11 wage required by law."
- 12 3. By striking page 10, line 14 through page 12,
- 13 line 31.
- 14 4. Page 13, line 34, by inserting after the word
- 15 "department" the following: "but only to the extent
- 16 of any medical support ordered pursuant to chapter
- 17 252E".
- 18 5. By renumbering as necessary.

By NEUHAUSER of Johnson

H-5711 FILED APRIL 3, 1992

*H/2 4/4 (p 1387)*

SENATE FILE 2316

H-5729

- 1 Amend the amendment, H-5473, to Senate File 2316,
- 2 as amended, passed, and reprinted by the Senate, as
- 3 follows:
- 4 1. Page 1, line 14, by inserting after the word
- 5 "contempt" the following: "under section 598.23 or
- 6 this section".

By BISIGNANO of Polk

H-5729 FILED APRIL 6, 1992

*H/2 4/4 (p 1387)*

SENATE FILE 2316

H-5730

- 1 Amend the amendment, H-5475, to Senate File 2316,
- 2 as amended, passed, and reprinted by the Senate, as
- 3 follows:
- 4 1. Page 1, line 14, by inserting after the word
- 5 "contempt" the following: "under section 598.23 or
- 6 this section".

By BISIGNANO of Polk

H-5730 FILED APRIL 6, 1992

*H/2 4/4 (p 1379)*



SENATE FILE 2316

H-5876

1 Amend Senate File 2316, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 22, by inserting after line 18, the  
4 following:

5 "Sec. \_\_\_\_ Section 598.21, Code 1991, is amended  
6 by adding the following new subsection:

7 NEW SUBSECTION. 11. The court shall require that  
8 a custodial parent submit to the noncustodial parent,  
9 an accounting of expenditures of child support  
10 payments received by the custodial parent, accompanied  
11 by receipts of expenditures."

12 2. By renumbering as necessary.

By HIBBARD of Madison

GILL of Woodbury

HURLEY of Fayette

SHEARER of Louisa

BARTZ of Worth

H-5876 FILED APRIL 13, 1992

*File 4/13/92*

## SENATE FILE 2316

H-5902

1 Amend Senate File 2316, as amended, passed, and re-  
2 printed by the Senate, as follows:

3 1. Page 2, by inserting after line 1 the fol-  
4 lowing:

5 "Sec. \_\_\_\_ . Section 252B.4, Code 1991, is amended  
6 by adding the following new subsection:

7 NEW SUBSECTION. 4. An application fee paid by a  
8 recipient of services pursuant to subsection 1 may be,  
9 recovered by the unit from the person responsible for  
10 payment of support and if recovered, shall be used to  
11 reimburse the recipient of services.

12 a. The fee shall be an automatic judgment against  
13 the person responsible to pay support.

14 b. This subsection shall serve as constructive  
15 notice that the fee is a debt due and owing, is an  
16 automatic judgment against the person responsible for  
17 support, and is assessed as the fee is paid by a  
18 recipient of services. The fee may be collected in  
19 addition to any support payments or support judgment  
20 ordered, and no further notice or hearing is required  
21 prior to collecting the fee.

22 c. Notwithstanding any provision to the contrary,  
23 the unit may collect the fee through any legal means  
24 by which support payments may be collected, including  
25 but not limited to income withholding under chapter  
26 252D or income tax refund offsets, unless prohibited  
27 under federal law.

28 d. The unit is not required to file these  
29 judgments with the clerk of the district court, but  
30 shall maintain an accurate accounting of the fee  
31 assessed, the amount of the fee, and the recovery of  
32 the fee.

33 e. Support payments collected shall not be applied  
34 to the recovery of the fee until all other support  
35 obligations under the support order being enforced,  
36 which have accrued through the end of the current  
37 calendar month, have been paid or satisfied in full.

38 f. This subsection applies to fees that become due  
39 on or after July 1, 1992."

40 2. By renumbering as necessary.

By HOLVECK of Polk  
NIELSEN of Linn

H-5902 FILED APRIL 14, 1992

ADOPTED (p. 1225)

## SENATE FILE 2316

H-5903

1 Amend the amendment, H-5568, to Senate File 2316,  
2 as amended, passed, and reprinted by the Senate, as  
3 follows:

4 1. Page 1, line 9, by striking the word "twenty"  
5 and inserting the following: "ten".

By PLASIER of Sioux

H-5903 FILED APRIL 14, 1992

ADOPTED (p. 1224)

HOUSE AMENDMENT TO  
SENATE FILE 2316

S-5699

1 Amend Senate File 2316, as amended, passed, and  
2 reprinted by the Senate, as follows:

3 1. Page 2, by inserting after line 1 the fol-  
4 lowing:

5 "Sec. \_\_\_\_ . Section 252B.4, Code 1991, is amended  
6 by adding the following new subsection:

7 NEW SUBSECTION. 4. An application fee paid by a  
8 recipient of services pursuant to subsection 1 may be  
9 recovered by the unit from the person responsible for  
10 payment of support and if recovered, shall be used to  
11 reimburse the recipient of services.

12 a. The fee shall be an automatic judgment against  
13 the person responsible to pay support.

14 b. This subsection shall serve as constructive  
15 notice that the fee is a debt due and owing, is an  
16 automatic judgment against the person responsible for  
17 support, and is assessed as the fee is paid by a  
18 recipient of services. The fee may be collected in  
19 addition to any support payments or support judgment  
20 ordered, and no further notice or hearing is required  
21 prior to collecting the fee.

22 c. Notwithstanding any provision to the contrary,  
23 the unit may collect the fee through any legal means  
24 by which support payments may be collected, including  
25 but not limited to income withholding under chapter  
26 252D or income tax refund offsets, unless prohibited  
27 under federal law.

28 d. The unit is not required to file these  
29 judgments with the clerk of the district court, but  
30 shall maintain an accurate accounting of the fee  
31 assessed, the amount of the fee, and the recovery of  
32 the fee.

33 e. Support payments collected shall not be applied  
34 to the recovery of the fee until all other support  
35 obligations under the support order being enforced,  
36 which have accrued through the end of the current  
37 calendar month, have been paid or satisfied in full.

38 f. This subsection applies to fees that become due  
39 on or after July 1, 1992."

40 2. By striking page 9, line 28, through page 10,  
41 line 1.

42 3. Page 15, by striking lines 10 through 29, and  
43 inserting the following:

44 "9. Notwithstanding subsection 8, a substantial  
45 change of circumstances exists when the court order  
46 for child support deviates ~~from the by ten percent or~~  
47 more from the amount which would be due pursuant to  
48 the most current child support guidelines established  
49 pursuant to section-598-2+, subsection 4 for-a-reason  
50 other-than-that-stated-in-the-original-order, unless

S-5699

-1-

S-5699

Page 2

1 ~~the provisions of the guidelines themselves have~~  
2 ~~changed since the entry or subsequent modification of~~  
3 ~~the original order.~~ Upon application for a  
4 modification of an order for child support where  
5 services are being received pursuant to chapter 252B,  
6 the court shall ~~act in accordance with section 598.21,~~  
7 set the amount of child support based upon the most  
8 current child support guidelines established pursuant  
9 to subsection 4. The child support recovery unit  
10 shall, in submitting an application for modification  
11 of an order for support, employ additional criteria  
12 and procedures for the review and adjustment of  
13 support awards, as established by rule."

14 4. Page 16, by inserting after line 11 the  
15 following:

16 "Sec. \_\_\_\_ . Section 252B.1, subsection 1, Code  
17 Supplement 1991, is amended to read as follows:

18 1. "Child" includes but shall not be limited to a  
19 stepchild, foster child or legally adopted child and  
20 means a child actually or apparently under eighteen  
21 years of age, and a dependent person eighteen years of  
22 age or over who is unable to maintain the person's  
23 self and is likely to become a public charge. "Child"  
24 includes "dependent children" as defined in section  
25 239.17-subsection-3."

26 5. Page 22, by inserting after line 18 the  
27 following:

28 "Sec. \_\_\_\_ . NEW SECTION. 598.23A CONTEMPT  
29 PROCEEDINGS FOR PROVISIONS OF SUPPORT PAYMENTS.

30 1. If a person against whom an order or decree for  
31 support has been entered pursuant to this chapter or  
32 chapter 234, 252A, 252C, 675, or any other support  
33 chapter, or a comparable chapter of a foreign  
34 jurisdiction, fails to make payments or provide  
35 medical support pursuant to that order or decree, the  
36 person may be cited and punished by the court for  
37 contempt under section 598.23 or this section.

38 2. If a person is cited for contempt, the court  
39 may require the posting of a cash bond, within seven  
40 calendar days, in an amount equivalent to the current  
41 arrearages and an additional amount which is  
42 equivalent to at least twelve months of future support  
43 obligations.

44 3. If the arrearages are not paid within three  
45 months of the hearing, the bond shall be automatically  
46 forfeited to cover payment of the full portion of the  
47 arrearages and the portion of the bond representing  
48 future support obligations shall be automatically  
49 forfeited to cover future support payments as they  
50 become due."

S-5699

-2-

S-5699

Page 3

1 6. Page 22, by inserting after line 31, the  
2 following:  
3 "Sec. \_\_\_\_ . MINIMUM CHILD SUPPORT PAYMENT PLAN.  
4 The department of human services shall develop a plan  
5 in accordance with this section to provide minimum  
6 child support payments in place of welfare payments.  
7 The plan shall include a process to establish a  
8 minimum child support payment amount for a child in  
9 this state. The plan shall provide for wage  
10 withholding to collect child support payments from  
11 obligors based on ability to pay. If the obligor's  
12 child support obligation is less than the minimum  
13 child support payment amount, state funds in the  
14 amount of the difference would be used to pay the  
15 minimum child support payment amount. In developing  
16 the plan, the department shall analyze the efforts of  
17 other states to develop this type of system, including  
18 Wisconsin and New York. The department shall explore  
19 the availability of public and private funding sources  
20 for developing and implementing a minimum child  
21 support payment plan in the state. The department  
22 shall submit the plan to the general assembly and the  
23 governor on or before February 1, 1993."  
24 7. By renumbering, relettering, or redesignating  
25 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-5699 FILED APRIL 15, 1992

*Senate amended (5725) & concurred 4/16 (p. 1447)**Senate concurred (5740), 5725 placed c/o, Senate concurred 4/20 (p. 1450)*

SENATE FILE 2316

S-5725

- 1 Amend the House amendment, S-5699, to Senate File
- 2 2316, as amended, passed, and reprinted by the Senate,
- 3 as follows:
- 4 1. Page 1, by striking lines 40 and 41.
- 5 2. By renumbering as necessary.

By LINN FUHRMAN  
RICHARD V. RUNNING

S-5725 FILED APRIL 16, 1992

ADOPTED (p. 1447)

*Revised - placed o/c 4/20 (p. 1490)*

SENATE FILE 2316

S-5740

1 Amend the House amendment, S-5699, to Senate File  
2 2316, as amended, passed, and reprinted by the Senate  
3 as follows:

4 1. Page 1, by striking lines 40 and 41 and  
5 inserting the following:

6 "\_\_\_\_\_. By striking page 9, line 22 through page  
7 10, line 1, and inserting the following:

8 "\_\_\_\_\_. a. Notwithstanding section 598.21,  
9 subsection 8, paragraph "k", the establishment of  
10 paternity by court order may be overcome if all of the  
11 following conditions are met:

12 (1) Prior blood or genetic tests have not been  
13 performed to establish paternity of the child.

14 (2) The court finds that it is in the best  
15 interest of the child to overcome the establishment of  
16 paternity. In determining the best interest of the  
17 child, the court shall consider the possibility of  
18 establishing actual paternity of the child.

19 (3) The court finds that the conclusion of the  
20 expert as disclosed by the evidence based upon blood  
21 or genetic tests demonstrates that the established  
22 father is not the biological father of the child.

23 (4) The action to overcome paternity is filed no  
24 later than three years after the entry of an order of  
25 paternity.

26 (5) The action to overcome paternity is filed  
27 prior to the child reaching majority.

28 (6) Notice of the action to overcome paternity is  
29 served on any parent of the child not initiating the  
30 action and any assignee of the support judgment.

31 (7) A guardian ad litem is appointed for the  
32 child.

33 b. The court may order additional tests to be  
34 conducted by the expert or an independent expert in  
35 order to confirm a test upon which an expert concludes  
36 that the established father is not the biological  
37 father of the child.

38 c. If the court finds that the establishment of  
39 paternity is overcome, in accordance with all of the  
40 conditions prescribed, the established father is  
41 relieved of all future support obligations owed on  
42 behalf of the child.

43 d. The costs of testing, the fee of the guardian  
44 ad litem, and all court costs shall be paid by the  
45 person bringing the action to overcome paternity.

46 e. This subsection shall not be construed as a  
47 basis for terminating an adoption decree or for  
48 discharging the obligation of an adoptive father to an  
49 adopted child pursuant to section 675.5."

50 2. By renumbering as necessary.

By ELAINE SZYMONIAK

S-5740 FILED APRIL 17, 1992 LINN PUERMAN

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 2316  
H-5969

- 1 Amend the House amendment, S-5699, to Senate File  
2 2316, as amended, passed, and reprinted by the Senate  
3 as follows:
- 4 1. Page 1, by striking lines 40 and 41 and  
5 inserting the following:
- 6 "\_\_\_\_\_. By striking page 9, line 22 through page  
7 10, line 1, and inserting the following:
- 8 "\_\_\_\_\_. a. Notwithstanding section 598.21,  
9 subsection 8, paragraph "k", the establishment of  
10 paternity by court order may be overcome if all of the  
11 following conditions are met:
- 12 (1) Prior blood or genetic tests have not been  
13 performed to establish paternity of the child.
- 14 (2) The court finds that it is in the best  
15 interest of the child to overcome the establishment of  
16 paternity. In determining the best interest of the  
17 child, the court shall consider the possibility of  
18 establishing actual paternity of the child.
- 19 (3) The court finds that the conclusion of the  
20 expert as disclosed by the evidence based upon blood  
21 or genetic tests demonstrates that the established  
22 father is not the biological father of the child.
- 23 (4) The action to overcome paternity is filed no  
24 later than three years after the entry of an order of  
25 paternity.
- 26 (5) The action to overcome paternity is filed  
27 prior to the child reaching majority.
- 28 (6) Notice of the action to overcome paternity is  
29 served on any parent of the child not initiating the  
30 action and any assignee of the support judgment.
- 31 (7) A guardian ad litem is appointed for the  
32 child.
- 33 b. The court may order additional tests to be  
34 conducted by the expert or an independent expert in  
35 order to confirm a test upon which an expert concludes  
36 that the established father is not the biological  
37 father of the child.
- 38 c. If the court finds that the establishment of  
39 paternity is overcome, in accordance with all of the  
40 conditions prescribed, the established father is  
41 relieved of all future support obligations owed on  
42 behalf of the child.
- 43 d. The costs of testing, the fee of the guardian  
44 ad litem, and all court costs shall be paid by the  
45 person bringing the action to overcome paternity.
- 46 e. This subsection shall not be construed as a  
47 basis for terminating an adoption decree or for  
48 discharging the obligation of an adoptive father to an  
49 adopted child pursuant to section 675.5."
- 50 2. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-5969 FILED APRIL 20, 1992

*House Amendment 4/21 (p 16/16)*



SZYMONIAK, CH.  
SURGEON  
HAGERLA 2/3/40

SSB 2090  
Human Resources *Now*

SENATE/HOUSE FILE 2316  
BY (PROPOSED DEPARTMENT OF  
HUMAN SERVICES BILL)

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

**A BILL FOR**

1 An Act relating to child support recovery.  
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24

DIVISION I

1  
2 Section 101. Section 252B.4, Code 1991, is amended to read  
3 as follows:

4 252B.4 NONASSISTANCE CASES.

5 The child support and paternity determination services  
6 established by the department pursuant to this chapter and  
7 other appropriate services provided by law including but not  
8 limited to the provisions of chapters 239, 252A, 598 and 675  
9 shall be made available by the unit to an individual not  
10 otherwise eligible as a public assistance recipient upon  
11 application by the individual for the services. The  
12 application shall be filed with the department.

13 1. The director may require an application fee not to  
14 exceed twenty dollars.

15 2. The director may require an additional fee to cover the  
16 costs incurred by the department in providing the support  
17 collection and paternity determination services.

18 a. The director shall, by rule, establish and make  
19 ~~available to inform~~ all applicants for support enforcement and  
20 paternity determination services a of the fee schedule. The  
21 ~~fee-for-support-collection-and-paternity-determination~~  
22 ~~services-charged-to-an-applicant-shall-be-agreed-upon-in~~  
23 ~~writing-by-the-applicant,-and-shall-be-based-upon-the~~  
24 ~~applicant's-ability-to-pay-for-the-services-~~

25 b. ~~The application-fee-and-the~~ additional fee for services  
26 may be deducted from the amount of the support money recovered  
27 by the department or may be collected from the recipient of  
28 the services.

29 3. ~~Seventy-percent-of-the-fees~~ Fees collected pursuant to  
30 this section may shall be retained by the department for use  
31 by the unit ~~and-thirty-percent-shall-be-remitted-to-the~~  
32 ~~treasurer-of-state-who-shall-deposit-it-in-the-general-fund-of~~  
33 ~~the-state.~~ The director or a designee ~~and-the-treasurer-of~~  
34 state shall keep an accurate record of funds so retained,  
35 ~~remitted,-and-deposited.~~

1 Sec. 102. Section 252B.11, Code 1991, is amended to read  
2 as follows:

3 252B.11 RECOVERY OF COSTS OF COLLECTION SERVICES.

4 The unit may initiate necessary civil proceedings to  
5 recover the unit's costs of support collection services  
6 provided to an individual, whether or not the individual is a  
7 public assistance recipient, from an individual who owes and  
8 is able to pay a support obligation but willfully fails to pay  
9 the obligation. The unit may seek a lump sum recovery of the  
10 unit's costs or may seek to recover the unit's costs through  
11 periodic payments which are in addition to periodic support  
12 payments. If the unit's costs are recovered from an  
13 individual owing a support obligation, the costs shall not be  
14 deducted from the amount of support money received from the  
15 individual. ~~Seventy-percent-of-the~~ The costs collected  
16 pursuant to this section may ~~shall~~ be retained by the  
17 department for use by the unit ~~and-thirty-percent-shall-be~~  
18 ~~remitted-to-the-treasurer-of-state-who-shall-deposit-it-in-the~~  
19 ~~general-fund-of-the-state.~~ The director or a designee and the  
20 ~~treasurer-of-state~~ shall keep an accurate record of funds so  
21 ~~retained, remitted, and deposited.~~

22 Sec. 103. Section 252D.1, subsection 2, Code 1991, is  
23 amended to read as follows:

24 2. If support payments ordered under section 234.39,  
25 section 252A.6, subsection 12, chapter 252C, section 598.21,  
26 or section 675.25, or under a comparable statute of a foreign  
27 jurisdiction, as certified to the child support recovery unit  
28 established in section 252B.2, are not paid to the clerk of  
29 the district court or the collection services center pursuant  
30 to section 598.22 and become delinquent in an amount equal to  
31 the payment for one month, upon application of a person  
32 entitled to receive the support payments, the child support  
33 recovery unit or the district court may enter an ex parte  
34 order notifying the person whose income is to be assigned, of  
35 the delinquent amount, of the amount of income or wages to be

1 withheld, and of the procedure to file a motion to quash the  
2 order of assignment, and shall order an assignment of income  
3 and notify an employer, trustee, or other payor by certified  
4 regular mail, with proof of service completed according to  
5 rule of civil procedure 82, of the order of the assignment of  
6 income requiring the withholding of specified sums to be  
7 deducted from the delinquent person's periodic earnings, trust  
8 income, or other income sufficient to pay the support  
9 obligation and, except as provided in section 598.22,  
10 requiring the payment of such sums to the clerk of the  
11 district court or the collection services center. The  
12 assignment of income is binding on an existing or future  
13 employer, trustee, or other payor ten days after the receipt  
14 of the order ~~by-certified-mail~~. The amount of an assignment  
15 of income shall not exceed the amount specified in 15 U.S.C. §  
16 1673(b). The assignment of income has priority over a  
17 garnishment or an assignment for a purpose other than the  
18 support of the dependents in the court order being enforced.  
19 The child support recovery unit or the district court, upon  
20 the application of any party, by ex parte order, may modify  
21 the assignment of income on the full payment of the  
22 delinquency or in an instance where the amount being withheld  
23 exceeds the amount specified in 15 U.S.C. § 1673(b), or may  
24 revoke the assignment of income upon the termination of  
25 parental rights, emancipation, death, or majority of the  
26 child, or upon a change of custody.

27 Sec. 104. Section 252D.12, Code 1991, is amended to read  
28 as follows:

29 252D.12 NOTICE TO EMPLOYER OR INCOME PAYOR.

30 A notice of immediate income withholding shall be sent to  
31 the employer, trustee, or other payor by certified regular  
32 mail, with proof of service completed according to rule of  
33 civil procedure 82. The assignment of income is binding on an  
34 existing or future employer, trustee, or other payor ten days  
35 after the receipt of the notice ~~by-certified-mail~~.

1 Sec. 105. Section 252D.18, subsection 1, Code Supplement  
2 1991, is amended to read as follows:

3 1. The employer, trustee, or other payor who receives an  
4 order of assignment ~~by certified mail pursuant to section~~  
5 ~~252B:17-subsection-3, or subchapter II,~~ shall deliver, on the  
6 next working day, a copy of the order to the person named in  
7 the order.

8 a. The order of assignment shall be sent to the employer,  
9 trustee, or other payor by regular mail, with proof of service  
10 completed according to rule of civil procedure 82.

11 b. The payor may deduct not more than two dollars from  
12 each payment from the employee's wages as a reimbursement for  
13 the payor's costs relating to the assignment.

14 c. The payor's compliance with the order of assignment  
15 satisfies the payor's obligation to the person for the amount  
16 of income withheld and transmitted to the clerk of the  
17 district court or collection services center.

18 DIVISION II

19 Sec. 201. NEW SECTION. 252B.7A IMPUTING INCOME.

20 1. If a parent fails to answer to a petition or respond to  
21 either prepetition or postpetition filing requests for  
22 financial information made by the department, the child  
23 support recovery unit may impute income for the establishment  
24 or modification of a support order by using one of the  
25 following as income:

26 a. Recent financial information obtained through automated  
27 or verifiable sources.

28 b. The median income for a single wage earner in the state  
29 of Iowa. This provision shall be effective July 1, 1992, and  
30 the child support recovery unit shall use the median income in  
31 the most recent publication of the United States department of  
32 labor. The child support recovery unit may revise this number  
33 each July 1 thereafter by obtaining the most recent United  
34 States department of labor statistic published at that time.

35 2. The amount of imputed income may be challenged any time

1 prior to the entry of the new or modified order for support.

2 3. For purposes of applying the guidelines in determining  
3 the amount of support for cases in which financial information  
4 has not been provided and the child support recovery unit is  
5 providing services pursuant to chapter 252B, the court shall  
6 use the amount of imputed income as defined in subsection 1,  
7 in determining the support obligation.

8 4. The department may develop rules which further  
9 implement disclosure of financial information of the parties.

10 Sec. 202. Section 252C.3, subsection 1, paragraph a, Code  
11 1991, is amended by striking the paragraph and relettering the  
12 remaining paragraphs.

13 Sec. 203. Section 252C.3, subsection 1, paragraph b, Code  
14 1991, is amended to read as follows:

15 b. A computation of the support debt based on the  
16 guidelines established pursuant to section 598.21.

17 Sec. 204. Section 252D.9, Code 1991, is amended to read as  
18 follows:

19 252D.9 SUMS SUBJECT TO IMMEDIATE WITHHOLDING.

20 Specified sums shall be deducted from the obligor's  
21 earnings, trust income, or other income sufficient to pay the  
22 support obligation and any delinquency which has accrued under  
23 the support order. The amount withheld pursuant to an  
24 assignment of income shall not exceed the amount specified in  
25 15 U.S.C. § 1673(b).

26 Sec. 205. NEW SECTION. 252D.17 FILING OF WITHHOLDING  
27 ORDER -- ORDER EFFECTIVE AS DISTRICT COURT ORDER.

28 An income withholding order entered by the child support  
29 recovery unit pursuant to this chapter shall be filed with the  
30 clerk of the district court. Upon filing, the withholding  
31 order shall have all the force, effect, and attributes of a  
32 docketed order of the district court including, but not  
33 limited to, availability of contempt of court proceedings  
34 against an employer, trustee, or other payor for  
35 noncompliance.

1 Sec. 206. Section 421.17, subsection 29, unnumbered  
2 paragraph 1, Code Supplement 1991, is amended to read as  
3 follows:

4 To establish and maintain a procedure to set off against  
5 any claim owed to a person by a state agency any liability of  
6 that person owed to a state agency or a support debt being  
7 enforced by the child support recovery unit pursuant to  
8 chapter 252B, except the setoff procedures provided for in  
9 subsections 21, 23, and 25. The procedure shall only apply  
10 when at the discretion of the director it is feasible. The  
11 procedure shall meet the following conditions:

12 Sec. 208<sup>7</sup>? Section 642.2, Code 1991, is amended by adding  
13 the following new subsection 4 and renumbering the subsequent  
14 subsections:

15 NEW SUBSECTION. 4. Notwithstanding subsections 3 and 6,  
16 any moneys owed the state by a child support obligor may be  
17 ~~attached~~<sup>garnished</sup> by the child support recovery unit if the child  
18 support recovery unit is providing enforcement services  
19 pursuant to chapter 252B.

20 Sec. 207<sup>8</sup>? Section 675.41, Code 1991, is amended by strik-  
21 ing the section and inserting in lieu thereof the following:

22 675.41 BLOOD AND GENETIC TESTS.

23 1. In a proceeding to establish paternity in law or in  
24 equity the court may on its own motion, and upon request of a  
25 party shall, require the child, mother, and alleged father to  
26 submit to blood or genetic tests.

27 2. If a blood or genetic test is required, the court shall  
28 direct that inherited characteristics, including but not  
29 limited to blood types, be determined by appropriate testing  
30 procedures, and shall appoint an expert qualified as an  
31 examiner of genetic markers to analyze and interpret the  
32 results and to report to the court.

33 3. Verified documentation of the chain of custody of the  
34 blood specimen is competent evidence to establish the chain of  
35 custody. The testimony of the court-appointed expert at trial

1 is not required.

2 4. A verified expert's report shall be admitted at trial.

3 5. The results of the tests shall have the following  
4 effects:

5 a. Test results which show a statistical probability of  
6 paternity are admissible.

7 b. If the expert concludes that the test results show that  
8 the alleged father is not excluded and that the probability of  
9 the alleged father's paternity is ninety-five percent or  
10 higher, there shall be a rebuttable presumption that the  
11 alleged father is the father, and this evidence must be  
12 admitted.

13 (1) To challenge this presumption of paternity, a party  
14 must file a notice of the challenge with the court within  
15 twenty days of the filing of the expert's report with the  
16 clerk of the district court.

17 (2) The party challenging the presumption of the alleged  
18 father's paternity has the burden of proving that the alleged  
19 father is not the father of the child.

20 (3) The presumption of paternity can be rebutted only by  
21 clear and convincing evidence.

22 c. If the expert concludes that the test results show that  
23 the alleged father is not excluded and that the probability of  
24 the alleged father's paternity is less than ninety-five  
25 percent, test results shall be weighed along with other  
26 evidence of the alleged father's paternity. To challenge the  
27 test results, a party must file a notice of the challenge with  
28 the court within twenty days of the filing of the expert's  
29 report with the clerk of the district court.

30 6. If the results of the tests or the expert's analysis of  
31 inherited characteristics is disputed, the court, upon  
32 reasonable request of a party, shall order that an additional  
33 test be made by the same laboratory or an independent  
34 laboratory at the expense of the party requesting additional  
35 testing.



1 7. The presumption of legitimacy of a child born during  
2 wedlock is overcome if the court finds that the conclusion of  
3 the expert, as disclosed by the evidence based upon the tests,  
4 shows that the husband is not the parent of the child.

5 8. All costs shall be paid by the parties or parents in  
6 proportions and at times determined by the court.

7 DIVISION III

8 Sec. 301. Section 232.147, Code 1991, is amended by adding  
9 the following new subsections:

10 NEW SUBSECTION. 7. The clerk of the district court may  
11 enter information from the juvenile record on the judgment  
12 docket and lien index, but only as necessary to record support  
13 judgments.

14 NEW SUBSECTION. 8. The state agency designated to enforce  
15 support obligations may only release information as necessary  
16 for the purpose of enforcing support obligations.

17 Sec. 302. NEW SECTION. 234.4 JURISDICTION.

18 Notwithstanding any other provision of this chapter, and  
19 for the purposes of establishing a parental liability obli-  
20 gation for a child under the jurisdiction of the juvenile  
21 court, the court shall establish a support obligation pursuant  
22 to section 234.39 or the department shall establish a support  
23 obligation pursuant to chapter 252C, provided that a support  
24 obligation has not previously been established under an order  
25 of the district court or chapter 252C.

26 Sec. 303. Section 234.39, subsections 1 and 2, Code 1991,  
27 are amended to read as follows:

28 1. For an individual to whom section 234.35, subsection 2,  
29 4, or 5, is applicable, a dispositional order of the juvenile  
30 court requiring the provision of foster care, or an  
31 administrative order entered pursuant to chapter 252C, shall  
32 establish, after notice and a reasonable opportunity to be  
33 heard is provided to a parent or guardian, the amount of the  
34 parent's or guardian's support obligation for the cost of  
35 foster care provided by the department, if a support

1 obligation has not previously been established under an order  
2 of the district court or court of comparable jurisdiction in  
3 another state or pursuant to chapter 252C. The court, or the  
4 department of human services, in establishing support by  
5 administrative order, shall establish the amount of the  
6 parent's or guardian's support obligation and the amount of  
7 support debt accrued and accruing in accordance with the child  
8 support guidelines prescribed under section 598.21, subsection  
9 4. However, the court, or the department, in establishing  
10 support by administrative order, may adjust the prescribed  
11 obligation after considering a recommendation by the  
12 department for expenses related to goals and objectives of a  
13 case permanency plan as defined under section 237.15. The  
14 order shall direct the payment of the support obligation to  
15 the collection services center for the use of the department's  
16 foster care recovery unit. The order shall be filed with the  
17 clerk of the district court in which the responsible parent or  
18 guardian resides and has the same force and effect as a  
19 judgment when entered in the judgment docket and lien index.  
20 The collection services center shall disburse the payments  
21 pursuant to the order and enter the disbursements in a record  
22 book. If payments are not made as ordered, the child support  
23 recovery unit shall certify a default to the court and the  
24 court may, on its own motion, proceed under section 598.22 or  
25 598.23. An order entered under this subsection may be  
26 modified only in accordance with the guidelines prescribed  
27 under section 598.21, subsection 8.

28 2. For an individual served by the department of human  
29 services under section 234.35, subsection 3, the department  
30 shall determine the obligation of the individual's parent or  
31 guardian pursuant to chapter 252C and in accordance with the  
32 child support guidelines prescribed under section 598.21,  
33 subsection 4. However, the department may adjust the  
34 prescribed obligation for expenses related to goals and  
35 objectives of a case permanency plan as defined under section

1 237.15. An obligation determined under this subsection may be  
2 modified only in accordance with conditions under section  
3 598.21, subsection 8.

4 Sec. 304. Section 234.39, Code 1991, is amended by adding  
5 the following new subsection:

6 NEW SUBSECTION. 3. A person entitled to periodic support  
7 payments pursuant to an order or judgment entered in any  
8 action for support, who also is or has a child receiving  
9 foster care services, is deemed to have assigned to the  
10 department current and accruing support payments attributable  
11 to the child effective as of the date the child enters foster  
12 care placement, to the extent of expenditure of foster care  
13 funds. The department shall notify the clerk of the district  
14 court when a child entitled to support payments is receiving  
15 foster care services pursuant to chapter 234. Upon  
16 notification by the department that a child entitled to  
17 periodic support payments is receiving foster care services,  
18 the clerk of the district court shall make a notation of the  
19 automatic assignment in the judgment docket and lien index.  
20 The notation constitutes constructive notice of assignment.  
21 All support payments shall be paid pursuant to chapter 252B.  
22 The clerk of court shall furnish the department with copies of  
23 all orders and decrees awarding support when the child is  
24 receiving foster care services. At the time the child ceases  
25 to receive foster care services, the assignment of support  
26 shall be automatically terminated. Unpaid support accrued  
27 under the assignment of support rights during the time that  
28 the child was in foster care remains due to the department up  
29 to the amount of unreimbursed foster care funds expended. The  
30 department shall notify the clerk of court of the automatic  
31 termination of the assignment.

32 DIVISION IV

33 Sec. 401. Section 252C.2, subsections 2 and 3, Code 1991,  
34 are amended to read as follows:

35 2. The payment of public assistance to or for the benefit

1 of a dependent child or a dependent child's caretaker creates  
2 a support debt due and owing to the department by the  
3 responsible person in an amount equal to the public assistance  
4 payment, except that the support debt is limited to the amount  
5 of a support obligation established by court order or by the  
6 administrator. If a court order has not been entered in Iowa,  
7 or if an order does not address accrued support owed to the  
8 state for public assistance expended, the administrator may  
9 establish a support debt, both as to amounts accrued and  
10 accruing, pursuant to section 598.21, subsection 4. However,  
11 a support debt is not created in favor of the department  
12 against a responsible person for the period during which the  
13 responsible person is a recipient on the person's own behalf  
14 of public assistance for the benefit of the dependent child or  
15 the dependent child's caretaker.

16 3. The provision of child support collection or paternity  
17 determination services under chapter 252B to an individual,  
18 even though the individual is ineligible for public  
19 assistance, creates a support debt due and owing to the  
20 individual or the individual's child or ward by the  
21 responsible person in the amount of a support obligation  
22 established by court order or by the administrator. If a  
23 court order has not been entered in Iowa, the administrator  
24 may establish a support debt in favor of the individual or the  
25 individual's child or ward and against the responsible person,  
26 both as to amounts accrued and accruing, pursuant to section  
27 598.21, subsection 4.

28 Sec. 402. Section 252C.2, Code 1991, is amended by adding  
29 the following new subsection 4 and renumbering the subsequent  
30 subsections:

31 NEW SUBSECTION. 4. The payment of medicaid benefits to or  
32 for the benefit of a dependent child or a dependent child's  
33 caretaker creates a support debt due and owing to the depart-  
34 ment pursuant to chapter 249A. If a court order has not been  
35 entered in Iowa, or if an administrative order or a court

1 order entered in Iowa does not require provision of medical  
2 support pursuant to chapter 252E, or equivalent medical  
3 support, the administrator may establish an order for medical  
4 support.

5 Sec. 403. Section 252C.3, subsection 1, unnumbered para-  
6 graph 1, Code 1991, is amended to read as follows:

7 ~~In the absence of a court order, or if an administrative~~  
8 ~~order exists which does not require provision of medical~~  
9 ~~support as defined in chapter 252E or equivalent medical~~  
10 support, the The administrator may issue a notice establishing  
11 and demanding either payment of medical support established as  
12 defined in chapter 252E or payment of an accrued or accruing  
13 support debt due and owed to the department or an individual  
14 under section 252C.2, or both. The notice shall be served  
15 upon the responsible person in accordance with the rules of  
16 civil procedure. The notice shall include all of the  
17 following:

18 Sec. 404. Section 252D.20, Code 1991, is amended to read  
19 as follows:

20 252D.20 ADMINISTRATION OF INCOME WITHHOLDING PROCEDURES.

21 The child support recovery unit is designated as the entity  
22 of the state to administer income withholding in accordance  
23 with the procedures specified for keeping adequate records to  
24 document, track, and monitor support payments on cases subject  
25 to Title IV-D of the federal Social Security Act. The clerks  
26 of the district court are designated as the entities for  
27 administering income withholding on cases which are not  
28 subject to Title IV-D. Notwithstanding section 622.53, in  
29 cases where the court or the child support recovery unit is  
30 enforcing a foreign judgment through income withholding, a  
31 certified copy of the underlying judgment is sufficient proof  
32 of authenticity.

33 Sec. 405. Section 598.21, subsection 9, Code 1991, is  
34 amended to read as follows:

35 9. Notwithstanding subsection 8, a substantial change of

1 circumstances exists when the court order for child support  
2 deviates from ~~the~~ by twenty percent or more from the amount  
3 which would be due pursuant to the most current child support  
4 guidelines established pursuant to section 598.21, subsection  
5 4. A substantial change of circumstances also exists when the  
6 court order for child support deviates from the guidelines for  
7 a reason other than that stated in the original order, unless  
8 the provisions ~~of~~ for deviation as provided by the guidelines  
9 themselves have changed since the entry or subsequent  
10 modification of the original order. Upon application for a  
11 modification of an order for child support where services are  
12 being received pursuant to chapter 252B, the court shall act  
13 ~~in accordance with~~ set the amount of child support based upon  
14 the most current child support guidelines established pursuant  
15 to section 598.21, subsection 4. The child support recovery  
16 unit shall, in submitting an application for modification of  
17 an order for support, employ additional criteria and  
18 procedures for the review and adjustment of support awards as  
19 established by rule.

20

DIVISION V

21 Sec. 501. Section 252C.5, Code 1991, is amended to read as  
22 follows:

23 252C.5 FILING AND DOCKETING OF FINANCIAL RESPONSIBILITY  
24 ORDER -- ORDER EFFECTIVE AS DISTRICT COURT DECREE.

25 A true copy of any order entered by the administrator  
26 pursuant to this chapter, along with a true copy of the return  
27 of service, if applicable, may be filed in the office of the  
28 clerk of the district court in the county in which the  
29 dependent child resides or, where the dependent child resides  
30 in another state, in the office of the district court in the  
31 county in which the absent parent resides. ~~Upon filing, the~~  
32 ~~clerk shall enter the order in the judgment docket, and the~~

33 1. The administrator's order shall be presented, ex parte,  
34 to the district court for review and approval, and unless  
35 Unless defects appear on the face of the order or on the

1 attachments, the district court shall approve the order, and  
2 the. The verified order shall have all the force, effect, and  
3 attributes of a docketed order or decree of the district  
4 court.

5 2. Upon filing, the clerk shall enter the order in the  
6 judgment docket.

7 Sec. 502. Section 252D.1, subsection 2, Code 1991, is  
8 amended to read as follows:

9 2. If support payments ordered under ~~section-234-39,~~  
10 ~~section-252A-6,-subsection-12,-chapter-252E,-section-598-21,~~  
11 ~~or-section-675-25,~~ chapter 232, 234, 252A, 252C, 252E, 598, or  
12 675 or any other comparable Iowa statute or under a comparable  
13 statute of a foreign jurisdiction, as certified to the child  
14 support recovery unit established in section 252B.2, are not  
15 paid to the clerk of the district court or the collection  
16 services center pursuant to section 598.22 and become  
17 delinquent in an amount equal to the payment for one month,  
18 upon application of a person entitled to receive the support  
19 payments, the child support recovery unit or the district  
20 court may enter an ex parte order notifying the person whose  
21 income is to be assigned, of the delinquent amount, of the  
22 amount of income or wages to be withheld, and of the procedure  
23 to file a motion to quash the order of assignment, and shall  
24 order an assignment of income and notify an employer, trustee,  
25 or other payor by certified mail of the order of the  
26 assignment of income requiring the withholding of specified  
27 sums to be deducted from the delinquent person's periodic  
28 earnings, trust income, or other income sufficient to pay the  
29 support obligation and, except as provided in section 598.22,  
30 requiring the payment of such sums to the clerk of the  
31 district court or the collection services center. The  
32 assignment of income is binding on an existing or future  
33 employer, trustee, or other payor ten days after the receipt  
34 of the order by certified mail. The amount of an assignment  
35 of income shall not exceed the amount specified in 15 U.S.C. §

1 1673(b). The assignment of income has priority over a  
2 garnishment or an assignment for a purpose other than the  
3 support of the dependents in the court order being enforced.  
4 The child support recovery unit or the district court, upon  
5 the application of any party, by ex parte order, may modify  
6 the assignment of income on the full payment of the  
7 delinquency or in an instance where the amount being withheld  
8 exceeds the amount specified in 15 U.S.C. § 1673(b), or may  
9 revoke the assignment of income upon the termination of  
10 parental rights, emancipation, death, or majority of the  
11 child, or upon a change of custody.

12 Sec. 503. Section 252E.1, subsection 1, Code 1991, is  
13 amended to read as follows:

14 1. "Child" means a person for whom child support may be  
15 ordered pursuant to chapter 234, 239, 252A, 252C, 598, or 675  
16 or any other chapter of the Code or pursuant to a comparable  
17 statute of a foreign jurisdiction.

18 Sec. 504. Section 252E.2, Code 1991, is amended to read as  
19 follows:

20 252E.2 ORDER FOR MEDICAL SUPPORT.

21 The entry of an order, pursuant to chapter 234, 252A, 252C,  
22 598, or 675 or any other chapter of the Code or pursuant to a  
23 comparable statute of a foreign jurisdiction, requiring the  
24 provision of coverage under a health benefit plan is  
25 authorization for enrollment of the dependent if the dependent  
26 is otherwise eligible to be enrolled. The dependent's  
27 eligibility and enrollment for coverage under such a plan  
28 shall be governed by all applicable terms and conditions,  
29 including, but not limited to, eligibility and insurability  
30 standards. The dependent, if eligible, shall be provided the  
31 same coverage as the obligor.

32 Sec. 505. Section 627.13, Code 1991, is amended to read as  
33 follows:

34 627.13 WORKERS' COMPENSATION.

35 Any compensation due or that may become due an employee or



1 dependent under ~~the provisions of~~ chapter 85 shall-be is  
2 exempt from garnishment, attachment, and execution, and  
3 assignment of income, except for the purposes of enforcing  
4 spousal support obligations.

5

## EXPLANATION

6 This bill provides for amendments to child support recovery  
7 provisions related to administrative costs, child support  
8 recovery collection enhancements, foster care collection  
9 enhancements, compliance with federal child support recovery  
10 requirements, and technical corrections.

11

## BACKGROUND STATEMENT

12

## SUBMITTED BY THE AGENCY

13

Division I

14 This division includes provisions related to recovery of  
15 administrative costs from child support payors and payees and  
16 to the reduction of administrative costs.

17 The population served by the child support recovery unit  
18 has grown rapidly over the past several years, but funding  
19 resources have not grown at the same rate. Recently, when  
20 across-the-board budget cuts were necessary, the options  
21 available for the child support recovery unit were either to  
22 reduce the availability of services or to increase program  
23 income through fees. The department chose to increase the  
24 application fee for services to persons who are not receiving  
25 public assistance and to begin charging additional fees which  
26 recover administrative costs for the program from nonpublic  
27 assistance services recipients.

28 During the process of preparing administrative rules for  
29 these changes in fee structures, the following issues were  
30 noted:

31 Iowa statute provides for 70 percent of fees collected by  
32 the child support recovery unit to be retained by the unit  
33 with the other 30 percent going to the general fund. It is  
34 believed that Iowa law on this was written prior to promulga-  
35 tion of current federal regulations on cost recovery. Current

1 federal regulations require that the state declare all costs  
2 recovered as program income. Program income is deducted from  
3 total program expenditures before calculating the share of  
4 expenditures for which the federal government provides  
5 reimbursement to the state. In order for the state to avoid a  
6 service reduction through cost recovery, it is necessary to  
7 change this provision of Iowa law to allow the department to  
8 retain all costs recovered for use by the unit.

9 Iowa statute currently requires that any fees charged to  
10 the child support payee for child support enforcement services  
11 be based upon the person's ability to pay. The child support  
12 recovery unit has been informed in writing by federal  
13 officials that this provision is in conflict with a child  
14 support state plan requirement for "state-wideness". Any fees  
15 charged must be the same for all service recipients.

16 Federal regulations permit a \$25 application fee for child  
17 support recovery services provided to persons not receiving  
18 public assistance. Iowa law limits the application fee to  
19 \$20.

20 Iowa statute currently requires that mandatory income  
21 withholding orders be forwarded to employers by certified  
22 mail. Based on the high cooperation level of employers, a  
23 change to regular mail would likely result in no decrease in  
24 compliance, while reducing mailing costs tremendously.

25 Division II

26 This division includes provisions related to the es-  
27 tablishment of support obligations and the collection and  
28 distribution of support payments. Many of these proposals  
29 involve administrative efficiencies or federal requirements,  
30 but all impact on recoveries. These proposals address the  
31 following issues:

32 Section 201: The supreme court uniform child support  
33 guidelines dictate procedures for the establishment of a  
34 support obligation. One of the assumptions is that income  
35 information is available for both parties. The guidelines are

1 silent on how to proceed in the absence of income information  
2 for the obligor. Without statutory direction in this matter,  
3 the current procedures being utilized by the child support  
4 recovery unit (CSRU) result in income being imputed at minimum  
5 wage for a 40-hour work week. In many instances, this may  
6 unfairly harm the children. Obligors with higher incomes  
7 could suppress their income information and the CSRU would be  
8 forced to enter a default using minimum wage, reducing the  
9 support to the children. The goal of this provision is to  
10 strongly encourage both parents to provide actual income  
11 information. This proposal would direct that median income be  
12 used to impute income in the absence of other income  
13 verification. The obligor is currently, and would continue to  
14 be, notified in advance of the amount of support being  
15 recommended by the CSRU. In the event that the imputed  
16 support obligation is inconsistent with the guidelines, the  
17 obligor could assure that the obligor's actual income is  
18 considered by providing income information. The obligor would  
19 also have recourse through the courts.

20 Sections 202 and 203: States with child support  
21 enforcement programs are required to have an expedited process  
22 for the establishment of child support obligations. In Iowa,  
23 the process is an administrative process defined in chapter  
24 252C. This chapter was implemented prior to the adoption of  
25 uniform child support guidelines, and requires that in public  
26 assistance cases the department include a detailed summary of  
27 the ADC payment history, which would be used to establish the  
28 support debt accrued. Because the guidelines are now used to  
29 establish accrued as well as accruing support, this  
30 information is no longer relevant and its gathering is  
31 administratively burdensome. Elimination of this requirement  
32 would result in a more timely entry of the order with two  
33 benefits: it would result in a quicker initiation of support  
34 payments, and it would help Iowa meet strict federal time  
35 standards related to the establishment of support obligations.

1 Section 204: Immediate income withholding, as defined in  
2 chapter 252D, requires immediate withholding of income upon  
3 the entry of a new or modified support order. This statute  
4 was passed in 1990 in response to a requirement in the federal  
5 Family Support Act of 1988. A recent consultant's study  
6 included a recommendation to modify the current statute by  
7 providing that an immediate income withholding order can also  
8 include an amount to be paid against delinquent accrued  
9 support in addition to the current practice of only including  
10 an amount for the ongoing obligation. This is intended to  
11 address gaps between the first payment due date and actual  
12 submission of payments by the employer, which can be delayed  
13 due to the timing of issuance of orders by the court, mail  
14 time related to the filing of documents with the clerk of  
15 court and forwarding them to the employer, and implementation  
16 by the employer.

17 Section 205: The entry of an order to withhold income pur-  
18 suant to chapter 252D is accomplished through an  
19 administrative procedure. The majority of employers comply  
20 with the statutory provision to withhold and remit income as  
21 support payments. The new provision would simplify the use of  
22 contempt of court proceedings to require compliance with  
23 orders to withhold income by the employer. Procedurally, this  
24 change would not affect those employers who comply with the  
25 income withholding orders.

26 Section 206: In public assistance cases, current Iowa law  
27 allows for the collection of delinquent support assigned to  
28 the state of Iowa through the department of revenue and  
29 finance by either the offset of state income tax refunds or  
30 through the offset of payments to individuals owed income,  
31 such as contractors or lottery winners. This is done under a  
32 provision for the offset of payments for administrative debts  
33 due to the state of Iowa. For nonpublic assistance cases,  
34 current Iowa law allows that delinquent support due to  
35 families may be collected through the department of revenue

1 and finance only by the offset of state income tax refunds.  
2 These delinquencies cannot currently be collected through the  
3 offset of payments to individuals owed income, such as  
4 contractors or lottery winners, as they are not debts due to  
5 the state of Iowa. Federal regulations require equal  
6 services; state remedies for collection of support must be  
7 available for both public assistance and nonpublic assistance  
8 cases in an equal manner. The exclusion in state law for  
9 nonpublic assistance cases prevents the CSRU from fully  
10 utilizing the offset mechanisms for delinquencies due to the  
11 state or to families.

12 Section 207: Chapter 642 limits garnishments against  
13 public employees to the wages of state employees. Other forms  
14 of income, such as a self-employed contractor income, would  
15 become subject to garnishment under this recommendation.

16 Section 208: The evolution of genetic testing has resulted  
17 in the ability to determine relatively high standards of  
18 probability in paternity determinations. Under current Iowa  
19 paternity proceedings, the burden is upon the petitioner  
20 (mother/child/state) to prove paternity. With presumptive  
21 paternity testing, results above a certain percentage  
22 probability would result in the burden shifting to the  
23 respondent (putative father) to disprove paternity. The  
24 result should be the ability to establish paternities in  
25 shorter time frames, thus initiating payment of support at an  
26 earlier date. At least eight states have adopted similar  
27 legislation.

28 Division III

29 This division includes provisions related to the establish-  
30 ment and collection of support obligations in cases involving  
31 children placed in foster care. Many of these involve admin-  
32 istrative efficiencies or federal requirements, but all impact  
33 on recoveries. These proposals attempt to address the  
34 following issues.

35 Section 301: Would clarify the statutory authority of

1 clerks of court to enter support obligations (parental  
2 liability) contained in juvenile orders into the judgment lien  
3 index. Additional language will be recommended to address the  
4 perception of a conflict in the Code related to the  
5 confidentiality of juvenile records versus the requirement to  
6 enter support judgments in the lien index. The use of liens  
7 is an effective recovery tool.

8 Sections 302 and 303: Would eliminate jurisdictional  
9 conflicts in the juvenile justice chapter and allow the  
10 department to establish parental liability through the chapter  
11 252C administrative process. With increased emphasis on the  
12 recovery of support in foster care placements, the department  
13 has increased its efforts in the juvenile court area for  
14 establishment of new support obligations. This has created a  
15 high resource demand. The use of administrative process would  
16 help to relieve demands for both the juvenile court and the  
17 CSRU and result in the initiation of payment of support in a  
18 more timely manner. Concerns related to this process should  
19 be addressed by the following:

20 - While the action is administered by the CSRU, the final  
21 order is signed by a judge who reviews the action to ensure  
22 due process requirements were met.

23 - The supreme court's child support guidelines would be  
24 utilized by the CSRU, thus ensuring that the court's intent is  
25 met.

26 - The department of human services has adopted criteria for  
27 deviating from the guidelines in foster care cases. These are  
28 currently included in recommendations to the juvenile court  
29 and are for the purposes of addressing situations unique to  
30 foster care placements.

31 Section 304: Addresses assignment of support. When an  
32 order for support (such as a divorce decree) exists at the  
33 time of a foster care placement, that support does not  
34 automatically follow the child. A manual process for the  
35 assignment must be undertaken by the worker. This process

1 cannot be completed if the person entitled to the support  
2 cannot be located. In public assistance (ADC) cases, the  
3 support is automatically assigned. This proposal would result  
4 in foster care assignments becoming consistent with ADC  
5 assignments, and support for the child will be distributed to  
6 the state in a timely manner.

7

Division IV

8 This division involves proposals to provide state statutory  
9 compliance with federal requirements.

10 Sections 401 through 403: Relate to the entry of an  
11 administrative order when an order in Iowa does not exist or  
12 when an existing order does not address medical support or  
13 past public assistance expenditures. Current statute results  
14 in the need for staff concern about orders that may be  
15 established in other states before proceeding with an  
16 administrative establishment of support. (The intent is that  
17 when the existence of an order outside of Iowa is known prior  
18 to the administrative establishment, the CSRU would enforce  
19 that order when possible instead of entering a new order in  
20 Iowa.) Current statute also requires a full judicial process,  
21 which is less timely in some instances and increases resource  
22 demands on the court, for establishment of a medical support  
23 obligation or reimbursement of public assistance expenditures  
24 when an existing child support order did not adequately  
25 address those issues.

26 Section 404: Relates to referrals of interstate cases re-  
27 ceived by Iowa. While not prohibited by federal requirements,  
28 a provision of the Iowa Code, section 622.53, requiring a  
29 double barrel certificate, creates an administrative burden  
30 for other states in working with the state of Iowa to secure  
31 enforcement of support orders through income withholding. The  
32 double barrel certificate certifies authenticity by requiring  
33 that the clerk of the court in the initiating state sign the  
34 document, then the judge in the initiating state must sign it,  
35 and then the clerk of court in the initiating state must sign

1 again to attest that the signature of the judge is in fact the  
2 judge's signature. The requirement has been viewed by other  
3 states and federal officials as administratively burdensome  
4 and unnecessary. This proposal would make Iowa's procedures  
5 similar to the procedures of other states and would be in  
6 compliance with federal requirements by eliminating the  
7 requirement for filing interstate income withholding in Iowa.

8 Section 405: Would bring existing state statute governing  
9 child support issues into compliance with proposed federal  
10 requirements by clarifying that regardless of when the child  
11 support order was entered, inconsistency with the current  
12 guidelines is, in and of itself, sufficient justification for  
13 modification of a support order. Existence of a substantial  
14 change in circumstances is not required.

15

Division V

16 This division makes technical corrections in the Code  
17 applying to child support recovery.

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35



SENATE FILE 2316

AN ACT  
RELATING TO CHILD SUPPORT RECOVERY.

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

DIVISION I

Section 101. Section 252B.4, Code 1991, is amended to read as follows:

252B.4 NONASSISTANCE CASES.

The child support and paternity determination services established by the department pursuant to this chapter and other appropriate services provided by law including but not limited to the provisions of chapters 239, 252A, 252C, 252D, 252E, 598 and 675 shall be made available by the unit to an individual not otherwise eligible as a public assistance recipient upon application by the individual for the services. The application shall be filed with the department.

1. The director ~~may~~ shall require an application fee not to exceed twenty of twenty-five dollars.

2. The director may require an additional fee to cover the costs incurred by the department in providing the support collection and paternity determination services.

a. The director shall, by rule, establish and make ~~available to inform~~ all applicants for support enforcement and paternity determination services ~~a of the fee schedule. The fee for support collection and paternity determination services charged to an applicant shall be agreed upon in writing by the applicant, and shall be based upon the applicant's ability to pay for the services.~~

b. ~~The application fee and the additional fee for services may be deducted from the amount of the support money recovered by the department or may be collected from the recipient of the services following recovery of support money by the department.~~

~~3. Seventy percent of the fees Fees collected pursuant to this section may shall be retained by the department for use by the unit and thirty percent shall be remitted to the treasurer of state who shall deposit it in the general fund of the state. The director or a designee and the treasurer of state shall keep an accurate record of funds so retained; remitted; and deposited.~~

Sec. 102. Section 252B.4, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 4. An application fee paid by a recipient of services pursuant to subsection 1 may be recovered by the unit from the person responsible for payment of support and if recovered, shall be used to reimburse the recipient of services.

a. The fee shall be an automatic judgment against the person responsible to pay support.

b. This subsection shall serve as constructive notice that the fee is a debt due and owing, is an automatic judgment against the person responsible for support, and is assessed as the fee is paid by a recipient of services. The fee may be collected in addition to any support payments or support judgment ordered, and no further notice or hearing is required prior to collecting the fee.

c. Notwithstanding any provision to the contrary, the unit may collect the fee through any legal means by which support payments may be collected, including but not limited to income withholding under chapter 252D or income tax refund offsets, unless prohibited under federal law.

d. The unit is not required to file these judgments with the clerk of the district court, but shall maintain an accurate accounting of the fee assessed, the amount of the fee, and the recovery of the fee.

e. Support payments collected shall not be applied to the recovery of the fee until all other support obligations under the support order being enforced, which have accrued through the end of the current calendar month, have been paid or satisfied in full.

f. This subsection applies to fees that become due on or after July 1, 1992.

Sec. 103. Section 252B.11, Code 1991, is amended to read as follows:

252B.11 RECOVERY OF COSTS OF COLLECTION SERVICES.

The unit may initiate necessary civil proceedings to recover the unit's costs of support collection services provided to an individual, whether or not the individual is a public assistance recipient, from an individual who owes and is able to pay a support obligation but willfully fails to pay the obligation. The unit may seek a lump sum recovery of the unit's costs or may seek to recover the unit's costs through periodic payments which are in addition to periodic support payments. If the unit's costs are recovered from an individual owing a support obligation, the costs shall not be deducted from the amount of support money received from the individual. ~~Seventy-percent-of-the~~ The costs collected pursuant to this section ~~may~~ shall be retained by the department for use by the unit ~~and-thirty-percent-shall-be~~ remitted-to-the-treasurer-of-state-who-shall-deposit-it-in-the-general-fund-of-the-state. The director or a designee ~~and-the~~ treasurer-of-state shall keep an accurate record of funds so ~~retained, remitted, and deposited.~~

Sec. 104. Section 252D.1, subsection 2, Code 1991, is amended to read as follows:

2. If support payments ordered under ~~section-234.39;~~ section-252A.6; ~~subsection-32;~~ chapter-252E; ~~section-598.22;~~ or-section-675.25 ~~chapter: 232, 234, 252A, 252C, 252D, 252E,~~ 598, 675, or any other applicable chapter, or under a comparable statute of a foreign jurisdiction, as certified to the child support recovery unit established in section 252B.2, are not paid to the clerk of the district court or the collection services center pursuant to section 598.22 and become delinquent in an amount equal to the payment for one month, upon application of a person entitled to receive the support payments, the child support recovery unit or the

district court may enter an ex parte order notifying the person whose income is to be assigned, of the delinquent amount, of the amount of income or wages to be withheld, and of the procedure to file a motion to quash the order of assignment, and shall order an assignment of income and notify an employer, trustee, or other payor by certified regular mail, with proof of service completed according to rule of civil procedure 82, of the order of the assignment of income requiring the withholding of specified sums to be deducted from the delinquent person's periodic earnings, trust income, or other income sufficient to pay the support obligation and, except as provided in section 598.22, requiring the payment of such sums to the clerk of the district court or the collection services center. The assignment of income is binding on an existing or future employer, trustee, or other payor ten days after the receipt of the order ~~by-certified-mail.~~ The amount of an assignment of income shall not exceed the amount specified in 15 U.S.C. § 1673(b). The assignment of income has priority over a garnishment or an assignment for a purpose other than the support of the dependents in the court order being enforced. The child support recovery unit or the district court, upon the application of any party, by ex parte order, may modify the assignment of income on the full payment of the delinquency or in an instance where the amount being withheld exceeds the amount specified in 15 U.S.C. § 1673(b), or may revoke the assignment of income upon the termination of parental rights, emancipation, death or majority of the child, or upon a change of custody.

Sec. 105. Section 252D.12, Code 1991, is amended to read as follows:

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 regular mail, with proof of service completed according to rule of civil procedure 82. 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. 106. Section 252D.18, subsection 1, Code Supplement 1991, is amended to read as follows:

1. The employer, trustee, or other payor who receives an order of assignment by certified mail pursuant to section 252D.17, subsection 3, or subchapter 117, shall deliver, on the next working day, a copy of the order to the person named in the order.

a. The order of assignment shall be sent to the employer, trustee, or other payor by regular mail, with proof of service completed according to rule of civil procedure 82.

b. The payor may deduct not more than two dollars from each payment from the employer's wages as a reimbursement for the payor's costs relating to the assignment.

c. 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 or collection services center.

#### DIVISION II

Sec. 201. NEW SECTION. 252B.7A DETERMINING PARENT'S INCOME.

1. The unit shall use any of the following in determining the amount of the net monthly income of a parent for purposes of establishing or modifying a support obligation:

a. Income as identified in a signed statement of the parent pursuant to section 252B.9, subsection 1, paragraph "b". If evidence suggests that the statement is incomplete or inaccurate, the unit may present the evidence to the court in a judicial proceeding or to the administrator in a proceeding under chapter 252C, and the court or administrator shall weigh the evidence in setting the support obligation. Evidence includes but is not limited to income as established under paragraph "c".

b. If a sworn statement is not provided by the parent, the unit may determine income as established under paragraph "c" or "d".

c. Income established by any of the following:

- (1) Income verified by an employer or payor of income.
  - (2) Income reported to the department of employment services.
  - (3) For a public assistance recipient, income as reported to the department case worker assigned to the public assistance case.
  - (4) Other written documentation which identifies income.
- d. The estimated state median income for a one-person family as published annually in the Federal Register for use by the federal office of community services, office of energy assistance, for the subsequent federal fiscal year.

(1) This provision is effective beginning July 1, 1992, based upon the information published in the Federal Register dated March 8, 1991.

(2) The unit may revise the estimated income each October 1. If the estimate is not available or has not been published, the unit may revise the estimate when it becomes available.

e. When the income information obtained pursuant to this subsection does not include the information necessary to determine the net monthly income of the parent, the unit may deduct twenty percent from the parent's gross monthly income to arrive at the net monthly income figure.

2. The amount of the income determined may be challenged any time prior to the entry of a new or modified order for support.

3. If the child support recovery unit is providing services pursuant to chapter 252B, the court shall use the income figure determined pursuant to this section when applying the guidelines to determine the amount of support.

4. The department may develop rules as necessary to further implement disclosure of financial information of the parties.

Sec. 202. Section 252C.3, subsection 1, paragraph a, Code 1991, is amended by striking the paragraph and relettering the remaining paragraphs.

Sec. 203. Section 252C.3, subsection 1, paragraph b, Code 1991, is amended to read as follows:

b. A computation of the support debt statement that the support obligation will be set pursuant to the child support guidelines established pursuant to section 598.21, subsection 4, and the criteria established pursuant to section 252B.7A.

Sec. 204. Section 252C.4, subsection 1, Code 1991, is amended to read as follows:

1. A responsible person or the child support recovery unit may request a hearing regarding a determination of support. If a timely written request for a hearing is received, the administrator 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 or, where the dependent child resides in another state, to the district court where the absent parent resides.

Sec. 205. NEW SECTION. 252C.12 WAIVER OF TIME LIMITATIONS BY RESPONSIBLE PERSON.

1. A responsible person may waive the time limitations established in section 252C.3.
2. Upon receipt of a signed statement from the responsible person waiving the time limitations established in section 252C.3, the administrator may proceed to enter an order for support and the court may approve the order, whether or not the time limitations have expired.
3. If a responsible person waives the time limitations established in section 252C.3 and an order for support is entered under this chapter, the signed statement of the responsible person waiving the time limitations shall be filed with the order for support.

Sec. 206. Section 252D.9, Code 1991, is amended to read as follows:

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 and any judgment established or delinquency accrued under the support order. The amount withheld pursuant to an assignment of income shall not exceed the amount specified in 15 U.S.C. § 1673(b).

Sec. 207. NEW SECTION. 252D.23 FILING OF WITHHOLDING ORDER -- ORDER EFFECTIVE AS DISTRICT COURT ORDER.

An income withholding order entered by the child support recovery unit pursuant to this chapter shall be filed with the clerk of the district court. Upon filing, the withholding order shall have all the force, effect, and attributes of a docketed order of the district court including, but not limited to, availability of contempt of court proceedings against an employer, trustee, or other payor for noncompliance.

Sec. 208. Section 421.17, subsection 29, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

To establish and maintain a procedure to set off against any claim owed to a person by a state agency any liability of that person owed to a state agency or a support debt being enforced by the child support recovery unit pursuant to chapter 252B, except the setoff procedures provided for in subsections 21, 23, and 25. The procedure shall only apply when at the discretion of the director it is feasible. The procedure shall meet the following conditions:

Sec. 209. Section 642.2, Code 1991, is amended by adding the following new subsection 4 and renumbering the subsequent subsection:

NEW SUBSECTION. 4. Notwithstanding subsections 3 and 6, any moneys owed to the child support obligor by the state and payments owed to the child support obligor through the Iowa public employees' retirement system are subject to garnishment, attachment, execution, or assignment by the child support recovery unit if the child support recovery unit is providing enforcement services pursuant to chapter 252B.

Sec. 210. Section 675.41, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

675.41 BLOOD AND GENETIC TESTS.

1. In a proceeding to establish paternity in law or in equity the court may on its own motion, and upon request of a party shall, require the child, mother, and alleged father to submit to blood or genetic tests.
2. If a blood or genetic test is required, the court shall direct that inherited characteristics, including but not limited to blood types, be determined by appropriate testing procedures, and shall appoint an expert qualified as an examiner of genetic markers to analyze and interpret the results and to report to the court.
3. Verified documentation of the chain of custody of the blood specimen is competent evidence to establish the chain of custody. The testimony of the court-appointed expert at trial is not required.
4. A verified expert's report shall be admitted at trial.
5. The results of the tests shall have the following effects:
  - a. Test results which show a statistical probability of paternity are admissible.
  - b. If the expert concludes that the test results show that the alleged father is not excluded and that the probability of the alleged father's paternity is ninety-five percent or higher, there shall be a rebuttable presumption that the alleged father is the father, and this evidence must be admitted.
    - (1) To challenge this presumption of paternity, a party must file a notice of the challenge with the court within twenty days of the filing of the expert's report with the clerk of the district court.
    - (2) The party challenging the presumption of the alleged father's paternity has the burden of proving that the alleged father is not the father of the child

- (3) The presumption of paternity can be rebutted only by clear and convincing evidence.
  - c. If the expert concludes that the test results show that the alleged father is not excluded and that the probability of the alleged father's paternity is less than ninety-five percent, test results shall be weighed along with other evidence of the alleged father's paternity. To challenge the test results, a party must file a notice of the challenge with the court within twenty days of the filing of the expert's report with the clerk of the district court.
  6. If the results of the tests or the expert's analysis of inherited characteristics is disputed, the court, upon reasonable request of a party, shall order that an additional test be made by the same laboratory or an independent laboratory at the expense of the party requesting additional testing.
    7. a. Notwithstanding section 598.21, subsection 8, paragraph "k", the establishment of paternity by court order may be overcome if all of the following conditions are met:
      - (1) Prior blood or genetic tests have not been performed to establish paternity of the child.
      - (2) The court finds that it is in the best interest of the child to overcome the establishment of paternity. In determining the best interest of the child, the court shall consider the possibility of establishing actual paternity of the child.
      - (3) The court finds that the conclusion of the expert as disclosed by the evidence based upon blood or genetic tests demonstrates that the established father is not the biological father of the child.
      - (4) The action to overcome paternity is filed no later than three years after the entry of an order of paternity.
      - (5) The action to overcome paternity is filed prior to the child reaching majority.
      - (6) Notice of the action to overcome paternity is served on any parent of the child not initiating the action and any assignee of the support judgment.

(7) A guardian ad litem is appointed for the child.

b. The court may order additional tests to be conducted by the expert or an independent expert in order to confirm a test upon which an expert concludes that the established father is not the biological father of the child.

c. If the court finds that the establishment of paternity is overcome, in accordance with all of the conditions prescribed, the established father is relieved of all future support obligations owed on behalf of the child.

d. The costs of testing, the fee of the guardian ad litem, and all court costs shall be paid by the person bringing the action to overcome paternity.

e. This subsection shall not be construed as a basis for terminating an adoption decree or for discharging the obligation of an adoptive father to an adopted child pursuant to section 675.5.

8. All costs shall be paid by the parties or parents in proportions and at times determined by the court.

#### DIVISION III

Sec. 301. Section 232.147, Code 1991, is amended by adding the following new subsections:

NEW SUBSECTION. 7. The clerk of the district court shall enter information from the juvenile record on the judgment docket and lien index, but only as necessary to record support judgments.

NEW SUBSECTION. 8. The state agency designated to enforce support obligations may release information as necessary in order to meet statutory responsibilities.

#### Sec. 302. NEW SECTION. 232.4 JURISDICTION.

Notwithstanding any other provision of this chapter, and for the purposes of establishing a parental liability obligation for a child under the jurisdiction of the juvenile court, the court shall establish a support obligation pursuant to section 234.39 or the department shall establish a support obligation pursuant to chapter 252C, provided that a support obligation has not previously been established under an order of the district court or chapter 252C

Sec. 303. Section 234.39, subsections 1 and 2, Code 1991, are amended to read as follows:

1. For an individual to whom section 234.35, subsection 2, 4, or 5, is applicable, a dispositional order of the juvenile court requiring the provision of foster care, or an administrative order entered pursuant to chapter 252C, 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 or pursuant to chapter 252C. The court, or the department of human services in establishing support by administrative order, 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, or the department of human services in establishing support by administrative order, may adjust deviate from 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, and upon written findings of fact which specify the reason for deviation and the prescribed guidelines amount. ~~The order Any order for support~~ 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 record the disbursements ~~in a record book~~. If payments are not made as ordered, the child support recovery unit shall ~~may~~ certify a default to the court and the court may, on its

own motion, proceed under section 598.22 or 598.21 or the child support recovery unit may enforce the judgment as allowed by law. 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 pursuant to chapter 252C and 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. 304. Section 234.39, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. A person entitled to periodic support payments pursuant to an order or judgment entered in any action for support, who also is or has a child receiving foster care services, is deemed to have assigned to the department current and accruing support payments attributable to the child effective as of the date the child enters foster care placement, to the extent of expenditure of foster care funds. The department shall notify the clerk of the district court when a child entitled to support payments is receiving foster care services pursuant to chapter 234. Upon notification by the department that a child entitled to periodic support payments is receiving foster care services, the clerk of the district court shall make a notation of the automatic assignment in the judgment docket and lien index. The notation constitutes constructive notice of assignment. The clerk of court shall furnish the department with copies of all orders and decrees awarding support when the child is receiving foster care services. At the time the child ceases

to receive foster care services, the assignment of support shall be automatically terminated. Unpaid support accrued under the assignment of support rights during the time that the child was in foster care remains due to the department up to the amount of unreimbursed foster care funds expended. The department shall notify the clerk of court of the automatic termination of the assignment.

#### DIVISION IV

Sec. 401. Section 252C.2, subsections 2 and 3, Code 1991, 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 in Iowa, or if an order does not address accrued support owed to the state for public assistance expended, the administrator may establish a support debt, both as to amounts accrued and accruing, pursuant to section 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 in Iowa, the administrator may establish a support debt in favor of the individual or the individual's child or ward and against the responsible person.

both as to amounts accrued and accruing, pursuant to section 598.21, subsection 4.

Sec. 402. Section 252C.2, Code 1991, is amended by adding the following new subsection 4 and renumbering the subsequent subsection:

NEW SUBSECTION. 4. The payment of medical assistance pursuant to chapter 249A for the benefit of a dependent child or a dependent child's caretaker creates a support debt due and owing to the department. If a court order has not been entered in Iowa, or if an administrative order or a court order entered in Iowa does not require provision of medical support pursuant to chapter 252E, or equivalent medical support, the administrator may establish an order for medical support.

Sec. 403. Section 252C.3, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

~~In the absence of a court order or if an administrative order exists which does not require provision of medical support as defined in chapter 252E or equivalent medical support, the~~ The administrator may issue a notice establishing and demanding stating the intent to secure an order for either payment of medical support established as defined in chapter 252E or payment of an accrued or accruing support debt due and owed to the department or an individual under section 252C.2, or both. 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:

Sec. 404. Section 252D.20, Code 1991, is amended to read as follows:

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. Notwithstanding section 622.53, in cases where the court or the child support recovery unit is enforcing a foreign judgment through income withholding, a certified copy of the underlying judgment is sufficient proof of authenticity.

Sec. 405. Section 598.21, subsection 4, unnumbered paragraph 1, Code 1991, is amended to read as follows:

~~The supreme court is authorized to prescribe shall maintain uniform child support guidelines and criteria to be effective October 12, 1989, and to review the guidelines and criteria at least once every four years, pursuant to the federal Family Support Act of 1988, Pub. L. No. 100-485. The initial review shall be performed within four years of October 12, 1989, and subsequently within the four-year period of the most recent review.~~

Sec. 406. Section 598.21, subsection 9, Code 1991, is amended to read as follows:

9. ~~Notwithstanding subsection 8, a substantial change of circumstances exists when the court order for child support deviates from the by ten percent or more from the amount which would be due pursuant to the most current child support guidelines established pursuant to section 598.21, subsection 4 for a reason other than that stated in the original order, unless the provisions of the guidelines themselves have changed since the entry or subsequent modification of the original order. Upon application for a modification of an order for child support where services are being received pursuant to chapter 252B, the court shall act in accordance with section 598.21, set the amount of child support based upon the most current child support guidelines established pursuant to subsection 4. The child support recovery unit shall, in submitting an application for modification of an order for support, employ additional criteria and procedures for the review and adjustment of support awards, as established by rule.~~



Sec. 501. Section 97B.39, Code 1991, is amended to read as follows:

97B.39 RIGHTS NOT TRANSFERABLE -- NOT SUBJECT TO LEGAL PROCESS.

The right of any person to any future payment under this chapter is not transferable or assignable, at law or in equity, and the moneys paid or payable or rights existing under this chapter are not subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law except for the purposes of enforcing child, spousal, or medical support obligations. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against compensation due a person under chapter 97B shall not exceed the amount specified in 15 U.S.C. § 1673(b).

Sec. 502. Section 252B.1, subsection 1, Code Supplement 1991, is amended to read as follows:

1. "Child" includes but shall not be limited to a stepchild, foster child or legally adopted child and means a child actually or apparently under eighteen years of age, and a dependent person eighteen years of age or over who is unable to maintain the person's self and is likely to become a public charge. "Child" includes "dependent children" as defined in section 239.17-subsection-3.

Sec. 503. Section 252B.5, subsections 2, 3, and 5, Code 1991, are amended to read as follows:

2. Aid in establishing paternity and securing a court order for support pursuant to chapter 252A or 675.

3. Aid in enforcing through court or administrative proceedings an existing court order for support issued pursuant to chapters chapter 252A, 252C, 598, and or 675, or any other chapter under which child or medical support is granted.

5. Determine periodically whether an individual receiving unemployment compensation benefits under chapter 96 owes a

support obligation which is being enforced by the unit, and enforce the support obligation through court or administrative proceedings in the absence of a voluntary agreement by the individual to have specified amounts withheld from the individual's unemployment compensation benefits.

Sec. 504. Section 252C.5, Code 1991, is amended to read as follows:

252C.5 FILING AND DOCKETING OF FINANCIAL RESPONSIBILITY ORDER -- ORDER EFFECTIVE AS DISTRICT COURT DECREE.

A true copy of any order entered by the administrator 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 or, where the dependent child resides in another state, in the office of the district court in the county in which the absent parent resides. Upon filing, the clerk shall enter the order in the judgment docket, and the

1. The administrator's order shall be presented, ex parte, to the district court for review and approval, and unless, unless defects appear on the face of the order or on the attachments, the district court shall approve the order, and the. The approved order shall have all the force, effect, and attributes of a docketed order or decree of the district court.

2. Upon filing, the clerk shall enter the order in the judgment docket.

Sec. 505. Section 252E.1, subsection 1, Code 1991, is amended to read as follows:

1. "Child" means a person for whom child or medical support may be ordered pursuant to chapter 234, 239, 252A, 252C, 598, or 675 or any other chapter of the Code or pursuant to a comparable statute of a foreign jurisdiction.

Sec. 506. Section 252E.2, Code 1991, is amended to read as follows:

252E.2 ORDER FOR MEDICAL SUPPORT.

The entry of an order, pursuant to chapter 234, 252A, 252C, 598, or 675 or any other chapter of the Code or pursuant to a comparable statute of a foreign jurisdiction, requiring the provision of coverage under a health benefit plan is authorization for enrollment of the dependent if the dependent is otherwise eligible to be enrolled. The dependent's eligibility and enrollment for coverage under such a plan shall be governed by all applicable terms and conditions, including, but not limited to, eligibility and insurability standards. The dependent, if eligible, shall be provided the same coverage as the obligor.

Sec. 507. Section 421.17, subsection 21, Code Supplement 1991, is amended to read as follows:

21. To establish and maintain a procedure to set off against a debtor's income tax refund or rebate any debt, which is assigned to the department of human services, which the child support recovery unit is attempting to collect on behalf of an individual not eligible as a public assistance recipient, or which the foster care recovery unit of the department of human services is attempting to collect on behalf of a child receiving foster care provided by the department of human services:

a. This includes any of the following:

(1) Any debt which has accrued through written contract, subrogation, or court judgment and which is in the form of a liquidated sum due and owing for the care, support or maintenance of a child or

(2) Any debt which has accrued through a court judgment which is due and owing as a support obligation for the debtor's spouse or former spouse when enforced in conjunction with a child support obligation.

(3) Any debt which is owed to the state for public assistance overpayments to recipients or to providers of services to recipients which the investigations division of the department of inspections and appeals is attempting to collect on behalf of the state. For purposes of this

subsection, "public assistance" means aid to dependent children, medical assistance, food stamps, foster care, and state supplementary assistance.

b. The procedure shall meet the following conditions:

a: (1) Before setoff all outstanding tax liabilities collectible by the department of revenue and finance shall be satisfied except that no portion of a refund or rebate shall be credited against tax liabilities which are not yet due.

b: (2) Before setoff the child support recovery unit established pursuant to section 252B.2, the foster care recovery unit, and the investigations division of the department of inspections and appeals shall obtain and forward to the department of revenue and finance the full name and social security number of the debtor. The department of revenue and finance shall co-operate in the exchange of relevant information with the child support recovery unit as provided in section 252B.9, with the foster care recovery unit, and with the investigations division of the department of inspections and appeals. However, only relevant information required by the child support unit, by the foster care recovery unit, or by the investigations division of the department of inspections and appeals shall be provided by the department of revenue and finance. The information shall be held in confidence and shall be used for purposes of setoff only.

c: (3) The child support recovery unit, the foster care recovery unit, and the investigations division of the department of inspections and appeals shall, at least annually, submit to the department of revenue and finance for setoff the debts described in this subsection, which are at least fifty dollars, on a date to be specified by the department of human services and the department of inspections and appeals by rule.

d: (4) Upon submission of a claim the department of revenue and finance shall notify the child support recovery unit, the foster care recovery unit, or the investigations

division of the department of inspections and appeals as to whether the debtor is entitled to a refund or rebate and if so entitled shall notify the unit or division of the amount of the refund or rebate and of the debtor's address on the income tax return.

e: [5] Upon notice of entitlement to a refund or rebate the child support recovery unit, the foster care recovery unit, or the investigations division of the department of inspections and appeals shall send written notification to the debtor, and a copy of the notice to the department of revenue and finance, of the unit's or division's assertion of its rights, or the rights of the department of human services, or the rights of an individual not eligible as a public assistance recipient to all or a portion of the debtor's refund or rebate and the entitlement to recover the debt through the setoff procedure, the basis of the assertion, the opportunity to request that a joint income tax refund or rebate be divided between spouses, the debtor's opportunity to give written notice of intent to contest the claim, and the fact that failure to contest the claim by written application for a hearing will result in a waiver of the opportunity to contest the claim, causing final setoff by default. Upon application filed with the department of human services within fifteen days from the mailing of the notice of entitlement to a refund or rebate, the department of human services shall grant a hearing pursuant to chapters 10A and 17A. An appeal taken from the decision of an administrative law judge and subsequent appeals shall be taken pursuant to chapter 17A.

f: [6] Upon the request of a debtor or a debtor's spouse to the child support recovery unit, the foster care recovery unit, or the investigations division of the department of inspections and appeals, filed within fifteen days from the mailing of the notice of entitlement to a refund or rebate, and upon receipt of the full name and social security number of the debtor's spouse, the unit or division shall notify the department of revenue and finance of the request to divide a

joint income tax refund or rebate. The department of revenue and finance shall upon receipt of the notice divide a joint income tax refund or rebate between the debtor and the debtor's spouse in proportion to each spouse's net income as determined under section 422.7.

g: [7] The department of revenue and finance shall, after notice has been sent to the debtor by the child support recovery unit, the foster care recovery unit, or the investigations division of the department of inspections and appeals, set off the debt against the debtor's income tax refund or rebate. However, if a debtor has made all current child support or foster care payments in accordance with a court order or an assessment of foster care liability for the twelve months preceding the proposed setoff and has regularly made delinquent child support or foster care payments during those twelve months, the child support or foster care recovery unit shall notify the department of revenue and finance not to set off the debt against the debtor's income tax refund or rebate. If a debtor has made all current repayment of public assistance in accordance with a court order or voluntary repayment agreement for the twelve months preceding the proposed setoff and has regularly made delinquent payments during those twelve months, the investigations division of the department of inspections and appeals shall notify the department of revenue and finance not to set off the debt against the debtor's income tax refund or rebate. The department of revenue and finance shall refund any balance of the income tax refund or rebate to the debtor. The department of revenue and finance shall periodically transfer the amount set off to the child support recovery unit, the foster care recovery unit, or the investigations division of the department of inspections and appeals. If the debtor gives timely written notice of intent to contest the claim the department of revenue and finance shall hold the refund or rebate until final disposition of the contested claim pursuant to chapter 17A or by court judgment. The child support

recovery unit, the foster care recovery unit, or the investigations division of the department of inspections and appeals shall notify the debtor in writing upon completion of setoff.

Sec. 508. Section 598.21, subsection 4, paragraph a, unnumbered paragraph 2, Code 1991, is amended to read as follows:

~~Until such time as the supreme court incorporates the provision of medical support in the guidelines as required by paragraph "c",~~ The court shall order as child medical support a health benefit plan as defined in chapter 252E if available to either parent at a reasonable cost. A health benefit plan is considered reasonable in cost if it is employment-related or other group health insurance, regardless of the service delivery mechanism. The premium cost of the health benefit plan may be considered by the court as a reason for varying from the child support guidelines. If a health benefit plan is not available at a reasonable cost, the court may order any other provisions for medical support as defined in chapter 252E.

Sec. 509. Section 598.21, subsection 4, Code 1991, is amended by adding the following new paragraph:

**NEW PARAGRAPH.** d. For purposes of calculating a support obligation under this section, the income of the parent from whom support is sought shall be used as the noncustodial parent income for purposes of application of the guidelines, regardless of the legal custody of the child.

Sec. 510. **NEW SECTION.** 598.23A CONTEMPT PROCEEDINGS FOR PROVISIONS OF SUPPORT PAYMENTS.

1. If a person against whom an order or decree for support has been entered pursuant to this chapter or chapter 234, 252A, 252C, 675, or any other support chapter, or a comparable chapter of a foreign jurisdiction, fails to make payments or provide medical support pursuant to that order or decree, the person may be cited and punished by the court for contempt under section 598.23 or this section.

2. If a person is cited for contempt, the court may require the posting of a cash bond, within seven calendar days, in an amount equivalent to the current arrearages and an additional amount which is equivalent to at least twelve months of future support obligations.

3. If the arrearages are not paid within three months of the hearing, the bond shall be automatically forfeited to cover payment of the full portion of the arrearages and the portion of the bond representing future support obligations shall be automatically forfeited to cover future support payments as they become due.

Sec. 511. Section 627.13, Code 1991, is amended to read as follows:

627.13 WORKERS' COMPENSATION.

Any compensation due or that may become due an employee or dependent under the provisions of chapter 85 shall be is exempt from garnishment, attachment, and execution, and assignment of income, except for the purposes of enforcing child, spousal, or medical support obligations. For the purposes of enforcing child, spousal, or medical support obligations, the garnishment or attachment of or the execution against compensation due an employee or dependent under chapter 85 shall be limited as specified in 15 U.S.C. § 1673(b).

Sec. 512. **MINIMUM CHILD SUPPORT PAYMENT PLAN.** The department of human services shall develop a plan in accordance with this section to provide minimum child support payments in place of welfare payments. The plan shall include a process to establish a minimum child support payment amount for a child in this state. The plan shall provide for wage withholding to collect child support payments from obligors based on ability to pay. If the obligor's child support obligation is less than the minimum child support payment amount, state funds in the amount of the difference would be used to pay the minimum child support payment amount. In developing the plan, the department shall analyze the efforts

of other states to develop this type of system, including Wisconsin and New York. The department shall explore the availability of public and private funding sources for developing and implementing a minimum child support payment plan in the state. The department shall submit the plan to the general assembly and the governor on or before February 1, 1993.

---

MICHAEL E. GRONSTAL  
President of the Senate

---

ROBERT C. ARNOULD  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2316, Seventy-fourth General Assembly.

---

JOHN F. DWYER  
Secretary of the Senate

Approved May 4, 1992

---

TERRY E. BRANSTAD  
Governor

**SF 2316**