

(P 784) 3-21-94 Motion to R/C by Haverland

(P 748) 3-22-94 Motion to R/C Withdrawn

(P 798) 3-22-94 Senate - Human Resources

HOUSE FILE 2407

BY COMMITTEE ON HUMAN RESOURCES

MAR 10 1994

Place On Calendar

(SUCCESSOR TO HSB 708)

Passed House, (P 786) Date 3-21-94 Passed Senate, (P 966) Date 3/31/95  
Vote: Ayes 55 Nays 43 Vote: Ayes 43 Nays 6  
Approved April 19, 1994

A BILL FOR

1 An Act relating to the collection of child support, including  
2 levies against the accounts of certain child support obligors  
3 and including affecting of the professional licensure or  
4 certification status of an obligor held in contempt of court.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HOUSE FILE 2407

H-5437

1 Amend House File 2407 as follows:  
2 1. Page 1, line 7, by inserting after the word  
3 "deposit." the following: "'Account" also includes  
4 deposits held by an agent, a broker-dealer, or an  
5 issuer as defined in section 502.102."  
6 2. Page 1, by inserting before line 8 the  
7 following: "However, "account" does not include  
8 amounts held by a financial institution as collateral  
9 for loans extended by the financial institution."  
10 3. Page 1, line 15, by inserting after the word  
11 "association." the following: "'Financial  
12 institution" also includes an institution which holds  
13 deposits for an agent, broker-dealer, or an issuer as  
14 defined in section 502.102."

By HAVERLAND of Polk

H-5437 FILED MARCH 16, 1994

*adopted 3-21-94*  
*(P 785)*

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TLSB 3588HV 75

pf/jj/8

HF 2407

1 Section 1. NEW SECTION. 252I.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise  
3 requires:

4 1. "Account" means "account" as defined in section  
5 524.103, "share account or shares" as defined in section  
6 534.102, the savings or deposits of a member received or being  
7 held by a credit union, or certificates of deposit.

8 2. "Bank" means "bank", "insured bank", "private bank",  
9 and "state bank" as defined in section 524.103.

10 3. "Court order" means "court order" as defined in section  
11 252C.1.

12 4. "Credit union" means "credit union" as defined in  
13 section 533.51.

14 5. "Financial institution" includes a bank, credit union,  
15 or savings and loan association.

16 6. "Obligor" means a person who has been ordered by a  
17 court or administrative authority to pay support.

18 7. "Savings and loan association" means "association" as  
19 defined in section 534.102.

20 8. "Support" or "support payments" means "support" or  
21 "support payments" as defined in section 252D.1.

22 9. "Unit" or "child support recovery unit" means the child  
23 support recovery unit created in section 252B.2.

24 10. "Working days" means only Monday, Tuesday, Wednesday,  
25 Thursday, and Friday, but excluding the holidays specified in  
26 section 1C.2, subsections 1 through 9.

27 Sec. 2. NEW SECTION. 252I.2 PURPOSE AND USE.

28 1. Notwithstanding other statutory provisions which  
29 provide for the execution, attachment, or levy against  
30 accounts, the unit may utilize the process established in this  
31 chapter to collect delinquent support payments provided that  
32 any exemptions or exceptions which specifically apply to  
33 enforcement of support obligations pursuant to other statutory  
34 provisions also apply to this chapter.

35 2. An obligor is subject to the provisions of this chapter

1 if the obligor's support obligation is being enforced by the  
2 child support recovery unit, and if the support payments  
3 ordered under chapter 232, 234, 252A, 252C, 252D, 252E, 252F,  
4 598, 600B, or any other applicable chapter, or under a  
5 comparable statute of a foreign jurisdiction, as certified to  
6 the child support recovery unit, are not paid to the clerk of  
7 the district court or the collection services center pursuant  
8 to section 598.22 and become delinquent in an amount equal to  
9 the support payment for one month.

10 3. Any amount forwarded by a financial institution under  
11 this chapter shall not exceed the amounts specified in 15  
12 U.S.C. § 1673(b) and shall not exceed the delinquent or  
13 accrued amount of support owed by the obligor.

14 Sec. 3. NEW SECTION. 252I.3 INITIAL NOTICE TO OBLIGOR.

15 The unit may proceed under this chapter only if notice has  
16 been provided to the obligor in one of the following manners:

17 1. The obligor is provided notice of the provisions of  
18 this chapter in the court order establishing the support  
19 obligation. The unit or district court may include language  
20 in any new or modified support order issued on or after July  
21 1, 1994, notifying the obligor that the obligor is subject to  
22 the provisions of this chapter.

23 2. The unit may send a notice by regular mail to the last  
24 known address of the obligor, notifying the obligor that the  
25 obligor is subject to the provisions of this chapter, with  
26 proof of service completed according to rule of civil  
27 procedure 82.

28 Sec. 4. NEW SECTION. 252I.4 VERIFICATION OF ACCOUNTS AND  
29 IMMUNITY FROM LIABILITY.

30 1. The unit may contact a financial institution to obtain  
31 verification of the account number, the names and social  
32 security numbers listed for the account, and the account  
33 balance of any account held by an obligor. Contact with a  
34 financial institution may be by telephone or by written  
35 communication. The financial institution may require positive

1 voice recognition and may require the telephone number of the  
2 authorized person from the unit before releasing an obligor's  
3 account information by telephone.

4 2. The financial institution is immune from any liability,  
5 civil or criminal, which might otherwise be incurred or  
6 imposed for any information released by the financial  
7 institution to the unit pursuant to this chapter.

8 3. The financial institution or the unit is not liable for  
9 the cost of any early withdrawal penalty of an obligor's  
10 certificate of deposit.

11 Sec. 5. NEW SECTION. 252I.5 ADMINISTRATIVE LEVY --  
12 NOTICE TO FINANCIAL INSTITUTION.

13 1. If an obligor is subject to this chapter under section  
14 252I.2, the unit may initiate an administrative action to levy  
15 against the accounts of the obligor. If notice has previously  
16 been provided pursuant to section 252I.3, further notice is  
17 not required.

18 2. The unit may send a notice to the financial institution  
19 with which the account is placed, directing that the financial  
20 institution forward all or a portion of the moneys in the  
21 obligor's account or accounts to the collection services  
22 center established pursuant to chapter 252B. The notice shall  
23 be sent by regular mail, with proof of service completed  
24 according to rule of civil procedure 82.

25 3. The notice to the financial institution shall contain  
26 all of the following:

- 27 a. The name and social security number of the obligor.  
28 b. A statement that the obligor is believed to have one or  
29 more accounts at the financial institution.  
30 c. A statement that pursuant to the provisions of this  
31 chapter, the obligor's accounts are subject to seizure and the  
32 financial institution is authorized and required to forward  
33 moneys to the collection services center.  
34 d. The maximum amount that shall be forwarded by the  
35 financial institution, which shall not exceed the delinquent

1 or accrued amount of support owed by the obligor.

2 e. The prescribed time frame which the financial  
3 institution must meet in forwarding amounts.

4 f. The address of the collection services center and the  
5 collection services center account number.

6 g. A telephone number, address, and contact name of the  
7 child support recovery unit contact initiating the action.

8 Sec. 6. NEW SECTION. 252I.6 ADMINISTRATIVE LEVY --NOTICE  
9 TO SUPPORT OBLIGOR.

10 1. The unit may administratively initiate an action to  
11 seize accounts of an obligor who is subject to this chapter  
12 under section 252I.2.

13 2. The unit shall notify an obligor subject to this  
14 chapter, and any other party known to have an interest in the  
15 account, of the action. The notice shall contain all of the  
16 following:

17 a. The name and social security number of the obligor.

18 b. A statement that the obligor is believed to have one or  
19 more accounts at the financial institution.

20 c. A statement that pursuant to the provisions of this  
21 chapter, the obligor's accounts are subject to seizure and the  
22 financial institution is authorized and required to forward  
23 moneys to the collection services center.

24 d. The maximum amount to be forwarded by the financial  
25 institution, which shall not exceed the delinquent or accrued  
26 amount of support owed by the obligor.

27 e. The prescribed time frames within which the financial  
28 institution must comply.

29 f. A statement that any challenge to the action shall be  
30 in writing and shall be received by the child support recovery  
31 unit within ten days of the date of the notice to the obligor.

32 g. The address of the collection services center and the  
33 collection services center account number.

34 h. A telephone number, address, and contact name for the  
35 child support recovery unit contact initiating the action.

1 3. The unit shall forward the notice to the obligor by  
2 regular mail within two working days of sending the notice to  
3 the financial institution pursuant to section 252I.5. Proof  
4 of service shall be completed according to rule of civil  
5 procedure 82.

6 Sec. 7. NEW SECTION. 252I.7 RESPONSIBILITIES OF  
7 FINANCIAL INSTITUTION.

8 Upon receipt of a notice under section 252I.5, the  
9 financial institution shall do all of the following:

10 1. Immediately encumber funds in all accounts in which the  
11 obligor has an interest to the extent of the debt indicated in  
12 the notice from the unit.

13 2. No sooner than fifteen days, and no later than twenty  
14 days from the date the financial institution receives the  
15 notice under section 252I.5, unless notified by the unit of a  
16 challenge by the obligor or an account holder of interest, the  
17 financial institution shall forward the moneys encumbered to  
18 the collection services center with the obligor's name and  
19 social security number, collection services center account  
20 number, and any other information required in the notice.

21 3. The financial institution may assess a fee against the  
22 obligor, not to exceed ten dollars, for forwarding of moneys  
23 to the collection services center. This fee is in addition to  
24 the amount of support due. In the event that there are  
25 insufficient moneys to cover the fee and the support amount  
26 due, the institution may deduct the fee amount prior to  
27 forwarding moneys to the collection services center and the  
28 amount credited to the support obligation shall be reduced by  
29 the fee amount.

30 Sec. 8. NEW SECTION. 252I.8 CHALLENGES TO ACTION.

31 1. Challenges under this chapter may be initiated only by  
32 an obligor or by an account holder of interest. Actions  
33 initiated by the unit under this chapter are not subject to  
34 chapter 17A, and resulting court hearings following  
35 certification shall be an original hearing before the district

1 court.

2 2. The person challenging the action shall submit a  
3 written challenge to the person identified as the contact for  
4 the unit in the notice, within ten working days of the date of  
5 the notice.

6 3. The unit shall, upon receipt of a written challenge,  
7 review the facts of the case with the challenging party. Only  
8 a mistake of fact, including but not limited to, a mistake in  
9 the identity of the obligor or a mistake in the amount of  
10 delinquent support due shall be considered as a reason to  
11 dismiss or modify the proceeding.

12 4. If the unit determines that a mistake of fact has  
13 occurred the unit shall proceed as follows:

14 a. If a mistake in identity has occurred or the obligor is  
15 not delinquent in an amount equal to the payment for one  
16 month, the unit shall notify the financial institution that  
17 the administrative levy has been released. The unit shall  
18 provide a copy of the notice to the support obligor by regular  
19 mail.

20 b. If the obligor is delinquent, but the amount of the  
21 delinquency is less than the amount indicated in the notice,  
22 the unit shall notify the financial institution of the revised  
23 amount with a copy of the notice and issue a copy to the  
24 obligor or forward a copy to the obligor by regular mail.  
25 Upon written receipt of instructions from the unit, the  
26 financial institution shall release the funds in excess of the  
27 revised amount to the obligor and the moneys in the amount of  
28 the debt shall be processed according to section 252I.7.

29 5. If the unit finds no mistake of fact, the unit shall  
30 provide a notice to that effect to the challenging party by  
31 regular mail. Upon written request of the challenging party,  
32 the unit shall request a hearing before the district court in  
33 the county in which the underlying support order is filed.

34 a. The financial institution shall encumber moneys if the  
35 child support recovery unit notifies the financial institution

1 to do so.

2 b. The clerk of the district court shall schedule a  
3 hearing upon the request by the unit for a time not later than  
4 ten calendar days after the filing of the request for hearing.  
5 The clerk shall mail copies of the request for hearing and the  
6 order scheduling the hearing to the unit and to all account  
7 holders of interest.

8 c. If the court finds that there is a mistake of identity  
9 or that the obligor does not owe the delinquent support, the  
10 unit shall notify the financial institution that the  
11 administrative levy has been released.

12 d. If the court finds that the obligor has an interest in  
13 the account, and the amount of support due was incorrectly  
14 overstated, the unit shall notify the financial institution to  
15 release the excess moneys to the obligor and remit the  
16 remaining moneys in the amount of the debt to the collection  
17 services center for disbursement to the appropriate recipient.

18 e. If the court finds that the obligor has an interest in  
19 the account, and the amount of support due is correct, the  
20 financial institution shall forward the moneys to the  
21 collection services center for disbursement to the appropriate  
22 recipient.

23 f. If the obligor or any other party known to have an  
24 interest in the account fails to appear at the hearing, the  
25 court may find the challenging party in default, shall ratify  
26 the administrative levy, if valid upon its face, and shall  
27 enter an order directing the financial institution to release  
28 the moneys to the unit.

29 g. Issues related to visitation, custody, or other  
30 provisions not related to levies against accounts are not  
31 grounds for a hearing under this chapter.

32 h. Support orders shall not be modified under a challenge  
33 pursuant to this section.

34 i. Any findings in the challenge of an administrative levy  
35 related to the amount of the accruing or accrued support



1 obligation do not modify the underlying support order.

2 j. An order entered under this chapter for a levy against  
3 an account of a support obligor has priority over a levy for a  
4 purpose other than the support of the dependents in the court  
5 order being enforced.

6 6. The support obligor may withdraw the request for  
7 challenge by submitting a written withdrawal to the person  
8 identified as the contact for the unit in the notice or the  
9 unit may withdraw the administrative levy at any time prior to  
10 the court hearing and provide notice of the withdrawal to the  
11 obligor and any account holder of interest and to the  
12 financial institution, by regular mail.

13 7. If the financial institution has forwarded moneys to  
14 the collection services center and has deducted a fee from the  
15 moneys of the account, or if any additional fees or costs are  
16 levied against the account, and all funds are subsequently  
17 refunded to the account due to a mistake of fact or ruling of  
18 the court, the child support recovery unit shall reimburse the  
19 account for any fees assessed by the financial institution.  
20 If the mistake of fact is a mistake in the amount of support  
21 due and any portion of the moneys is retained as support  
22 payments, however, the unit is not required to reimburse the  
23 account for any fees or costs levied against the account.

24 Sec. 9. Section 598.23A, subsection 2, unnumbered  
25 paragraph 1, Code Supplement 1993, is amended to read as  
26 follows:

27 If a person is cited for contempt, the court may do either  
28 any of the following:

29 Sec. 10. Section 598.23A, subsection 2, Code Supplement  
30 1993, is amended by adding the following new paragraph:

31 NEW PARAGRAPH. c. Require disciplinary action against a  
32 support obligor found to be in arrears until further order of  
33 the court.

34 (1) The court shall not order the removal of the  
35 disciplinary action until the contemnor files proof with the

1 court verifying that the contemnor's payments are no longer in  
2 arrears.

3 (2) Notice of the court's intent to remove the contemnor's  
4 disciplinary action status shall be provided to the person  
5 entitled to receive support payments or to the child support  
6 recovery unit when the unit is providing enforcement services  
7 pursuant to chapter 252B, at least ten days prior to entry of  
8 an order removing the disciplinary action status. The clerk  
9 of court shall set the matter for hearing within ten days of  
10 any challenge of the court's intent to terminate the action.

11 (3) If the court determines that disciplinary action, or  
12 an extreme hardship upon the contemnor, the court may, in lieu  
13 of disciplinary action status, allow the contemnor to continue  
14 to practice the contemnor's profession on terms established by  
15 the court.

16 (a) Terms established shall be conditioned upon full  
17 compliance with the order or decree for payment of child  
18 support or medical support, including payment in full of the  
19 arrearages.

20 (b) If the court grants tentative terms, the terms shall  
21 provide for suspension of the license or certificate if the  
22 contemnor does not provide monthly proof to the court of full  
23 compliance with the order or decree for payment of child  
24 support or medical support, including payment in full of the  
25 arrearages. Notice of the court's intent to suspend the  
26 license or certificate shall be provided to the contemnor at  
27 least ten days prior to the entry of a suspension order. The  
28 clerk shall set the matter for hearing within ten days of the  
29 challenge to the proposed suspension action.

30 (4) As used in this paragraph, "license" means any license  
31 or renewal of a license, certification, or registration issued  
32 by an agency to a person to conduct a trade or business,  
33 including but not limited to a license to practice a  
34 profession or occupation or to operate a commercial motor  
35 vehicle and "disciplinary action" means supervision,

1 revocation, or application of probationary status to a license  
2 or certificate.

3

#### EXPLANATION

4 This bill provides a procedure for initiating levies  
5 against the bank accounts of child support obligors and other  
6 account holders of interest against whom a support obligation  
7 is being enforced by the child support recovery unit, if  
8 support is delinquent in an amount equal to the support  
9 payment for one month. The bill provides for notice to the  
10 obligor and other account holders, notice to the financial  
11 institution in which the account is held, a procedure for an  
12 administrative levy and for a challenge of administrative  
13 procedure, and for responsibilities of financial institutions.

14 The bill also provides for the affecting of the  
15 professional licensure or certification of a support obligor  
16 who is held in contempt of court for failure to provide  
17 support.

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HOUSE FILE 2407

BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 708)

(As Amended and Passed by the House March 22, 1994)

Passed House, <sup>(P.1370)</sup> Date 4-11-94 Passed Senate, <sup>(P.966)</sup> Date 3/31/94  
Vote: Ayes 91 Nays 8 Vote: Ayes 43 Nays 6  
Approved April 19, 1994

A BILL FOR

1 An Act relating to the collection of child support, including  
2 levies against the accounts of certain child support obligors  
3 and including affecting of the professional licensure or  
4 certification status of an obligor held in contempt of court.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

House Amendments \_\_\_\_\_

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1 Section 1. NEW SECTION. 252I.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise  
3 requires:

4 1. "Account" means "account" as defined in section  
5 524.103, "share account or shares" as defined in section  
6 534.102, the savings or deposits of a member received or being  
7 held by a credit union, or certificates of deposit. "Account"  
8 also includes deposits held by an agent, a broker-dealer, or  
9 an issuer as defined in section 502.102. However, "account"  
10 does not include amounts held by a financial institution as  
11 collateral for loans extended by the financial institution.

12 2. "Bank" means "bank", "insured bank", "private bank",  
13 and "state bank" as defined in section 524.103.

14 3. "Court order" means "court order" as defined in section  
15 252C.1.

16 4. "Credit union" means "credit union" as defined in  
17 section 533.51.

18 5. "Financial institution" includes a bank, credit union,  
19 or savings and loan association. "Financial institution" also  
20 includes an institution which holds deposits for an agent,  
21 broker-dealer, or an issuer as defined in section 502.102.

22 6. "Obligor" means a person who has been ordered by a  
23 court or administrative authority to pay support.

24 7. "Savings and loan association" means "association" as  
25 defined in section 534.102.

26 8. "Support" or "support payments" means "support" or  
27 "support payments" as defined in section 252D.1.

28 9. "Unit" or "child support recovery unit" means the child  
29 support recovery unit created in section 252B.2.

30 10. "Working days" means only Monday, Tuesday, Wednesday,  
31 Thursday, and Friday, but excluding the holidays specified in  
32 section 1C.2, subsections 1 through 9.

33 Sec. 2. NEW SECTION. 252I.2 PURPOSE AND USE.

34 1. Notwithstanding other statutory provisions which  
35 provide for the execution, attachment, or levy against

1 accounts, the unit may utilize the process established in this  
2 chapter to collect delinquent support payments provided that  
3 any exemptions or exceptions which specifically apply to  
4 enforcement of support obligations pursuant to other statutory  
5 provisions also apply to this chapter.

6 2. An obligor is subject to the provisions of this chapter  
7 if the obligor's support obligation is being enforced by the  
8 child support recovery unit, and if the support payments  
9 ordered under chapter 232, 234, 252A, 252C, 252D, 252E, 252F,  
10 598, 600B, or any other applicable chapter, or under a  
11 comparable statute of a foreign jurisdiction, as certified to  
12 the child support recovery unit, are not paid to the clerk of  
13 the district court or the collection services center pursuant  
14 to section 598.22 and become delinquent in an amount equal to  
15 the support payment for one month.

16 3. Any amount forwarded by a financial institution under  
17 this chapter shall not exceed the amounts specified in 15  
18 U.S.C. § 1673(b) and shall not exceed the delinquent or  
19 accrued amount of support owed by the obligor.

20 Sec. 3. NEW SECTION. 2521.3 INITIAL NOTICE TO OBLIGOR.

21 The unit may proceed under this chapter only if notice has  
22 been provided to the obligor in one of the following manners:

23 1. The obligor is provided notice of the provisions of  
24 this chapter in the court order establishing the support  
25 obligation. The unit or district court may include language  
26 in any new or modified support order issued on or after July  
27 1, 1994, notifying the obligor that the obligor is subject to  
28 the provisions of this chapter.

29 2. The unit may send a notice by regular mail to the last  
30 known address of the obligor, notifying the obligor that the  
31 obligor is subject to the provisions of this chapter, with  
32 proof of service completed according to rule of civil  
33 procedure 82.

34 Sec. 4. NEW SECTION. 2521.4 VERIFICATION OF ACCOUNTS AND  
35 IMMUNITY FROM LIABILITY.

1 1. The unit may contact a financial institution to obtain  
2 verification of the account number, the names and social  
3 security numbers listed for the account, and the account  
4 balance of any account held by an obligor. Contact with a  
5 financial institution may be by telephone or by written  
6 communication. The financial institution may require positive  
7 voice recognition and may require the telephone number of the  
8 authorized person from the unit before releasing an obligor's  
9 account information by telephone.

10 2. The financial institution is immune from any liability,  
11 civil or criminal, which might otherwise be incurred or  
12 imposed for any information released by the financial  
13 institution to the unit pursuant to this chapter.

14 3. The financial institution or the unit is not liable for  
15 the cost of any early withdrawal penalty of an obligor's  
16 certificate of deposit.

17 Sec. 5. NEW SECTION. 252I.5 ADMINISTRATIVE LEVY --NOTICE  
18 TO FINANCIAL INSTITUTION.

19 1. If an obligor is subject to this chapter under section  
20 252I.2, the unit may initiate an administrative action to levy  
21 against the accounts of the obligor. If notice has previously  
22 been provided pursuant to section 252I.3, further notice is  
23 not required.

24 2. The unit may send a notice to the financial institution  
25 with which the account is placed, directing that the financial  
26 institution forward all or a portion of the moneys in the  
27 obligor's account or accounts to the collection services  
28 center established pursuant to chapter 252B. The notice shall  
29 be sent by regular mail, with proof of service completed  
30 according to rule of civil procedure 82.

31 3. The notice to the financial institution shall contain  
32 all of the following:

33 a. The name and social security number of the obligor.

34 b. A statement that the obligor is believed to have one or  
35 more accounts at the financial institution.

1 c. A statement that pursuant to the provisions of this  
2 chapter, the obligor's accounts are subject to seizure and the  
3 financial institution is authorized and required to forward  
4 moneys to the collection services center.

5 d. The maximum amount that shall be forwarded by the  
6 financial institution, which shall not exceed the delinquent  
7 or accrued amount of support owed by the obligor.

8 e. The prescribed time frame which the financial  
9 institution must meet in forwarding amounts.

10 f. The address of the collection services center and the  
11 collection services center account number.

12 g. A telephone number, address, and contact name of the  
13 child support recovery unit contact initiating the action.

14 Sec. 6. NEW SECTION. 252I.6 ADMINISTRATIVE LEVY --NOTICE  
15 TO SUPPORT OBLIGOR.

16 1. The unit may administratively initiate an action to  
17 seize accounts of an obligor who is subject to this chapter  
18 under section 252I.2.

19 2. The unit shall notify an obligor subject to this  
20 chapter, and any other party known to have an interest in the  
21 account, of the action. The notice shall contain all of the  
22 following:

23 a. The name and social security number of the obligor.

24 b. A statement that the obligor is believed to have one or  
25 more accounts at the financial institution.

26 c. A statement that pursuant to the provisions of this  
27 chapter, the obligor's accounts are subject to seizure and the  
28 financial institution is authorized and required to forward  
29 moneys to the collection services center.

30 d. The maximum amount to be forwarded by the financial  
31 institution, which shall not exceed the delinquent or accrued  
32 amount of support owed by the obligor.

33 e. The prescribed time frames within which the financial  
34 institution must comply.

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1 in writing and shall be received by the child support recovery  
2 unit within ten days of the date of the notice to the obligor.

3 g. The address of the collection services center and the  
4 collection services center account number.

5 h. A telephone number, address, and contact name for the  
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9 the financial institution pursuant to section 252I.5. Proof  
10 of service shall be completed according to rule of civil  
11 procedure 82.

12 Sec. 7. NEW SECTION. 252I.7 RESPONSIBILITIES OF  
13 FINANCIAL INSTITUTION.

14 Upon receipt of a notice under section 252I.5, the  
15 financial institution shall do all of the following:

16 1. Immediately encumber funds in all accounts in which the  
17 obligor has an interest to the extent of the debt indicated in  
18 the notice from the unit.

19 2. No sooner than fifteen days, and no later than twenty  
20 days from the date the financial institution receives the  
21 notice under section 252I.5, unless notified by the unit of a  
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23 financial institution shall forward the moneys encumbered to  
24 the collection services center with the obligor's name and  
25 social security number, collection services center account  
26 number, and any other information required in the notice.

27 3. The financial institution may assess a fee against the  
28 obligor, not to exceed ten dollars, for forwarding of moneys  
29 to the collection services center. This fee is in addition to  
30 the amount of support due. In the event that there are  
31 insufficient moneys to cover the fee and the support amount  
32 due, the institution may deduct the fee amount prior to  
33 forwarding moneys to the collection services center and the  
34 amount credited to the support obligation shall be reduced by  
35 the fee amount.

1     Sec. 8. NEW SECTION. 252I.8 CHALLENGES TO ACTION.

2     1. Challenges under this chapter may be initiated only by  
3 an obligor or by an account holder of interest. Actions  
4 initiated by the unit under this chapter are not subject to  
5 chapter 17A, and resulting court hearings following  
6 certification shall be an original hearing before the district  
7 court.

8     2. The person challenging the action shall submit a  
9 written challenge to the person identified as the contact for  
10 the unit in the notice, within ten working days of the date of  
11 the notice.

12    3. The unit shall, upon receipt of a written challenge,  
13 review the facts of the case with the challenging party. Only  
14 a mistake of fact, including but not limited to, a mistake in  
15 the identity of the obligor or a mistake in the amount of  
16 delinquent support due shall be considered as a reason to  
17 dismiss or modify the proceeding.

18    4. If the unit determines that a mistake of fact has  
19 occurred the unit shall proceed as follows:

20     a. If a mistake in identity has occurred or the obligor is  
21 not delinquent in an amount equal to the payment for one  
22 month, the unit shall notify the financial institution that  
23 the administrative levy has been released. The unit shall  
24 provide a copy of the notice to the support obligor by regular  
25 mail.

26     b. If the obligor is delinquent, but the amount of the  
27 delinquency is less than the amount indicated in the notice,  
28 the unit shall notify the financial institution of the revised  
29 amount with a copy of the notice and issue a copy to the  
30 obligor or forward a copy to the obligor by regular mail.  
31 Upon written receipt of instructions from the unit, the  
32 financial institution shall release the funds in excess of the  
33 revised amount to the obligor and the moneys in the amount of  
34 the debt shall be processed according to section 252I.7.

35    5. If the unit finds no mistake of fact, the unit shall

1 provide a notice to that effect to the challenging party by  
2 regular mail. Upon written request of the challenging party,  
3 the unit shall request a hearing before the district court in  
4 the county in which the underlying support order is filed.

5 a. The financial institution shall encumber moneys if the  
6 child support recovery unit notifies the financial institution  
7 to do so.

8 b. The clerk of the district court shall schedule a  
9 hearing upon the request by the unit for a time not later than  
10 ten calendar days after the filing of the request for hearing.  
11 The clerk shall mail copies of the request for hearing and the  
12 order scheduling the hearing to the unit and to all account  
13 holders of interest.

14 c. If the court finds that there is a mistake of identity  
15 or that the obligor does not owe the delinquent support, the  
16 unit shall notify the financial institution that the  
17 administrative levy has been released.

18 d. If the court finds that the obligor has an interest in  
19 the account, and the amount of support due was incorrectly  
20 overstated, the unit shall notify the financial institution to  
21 release the excess moneys to the obligor and remit the  
22 remaining moneys in the amount of the debt to the collection  
23 services center for disbursement to the appropriate recipient.

24 e. If the court finds that the obligor has an interest in  
25 the account, and the amount of support due is correct, the  
26 financial institution shall forward the moneys to the  
27 collection services center for disbursement to the appropriate  
28 recipient.

29 f. If the obligor or any other party known to have an  
30 interest in the account fails to appear at the hearing, the  
31 court may find the challenging party in default, shall ratify  
32 the administrative levy, if valid upon its face, and shall  
33 enter an order directing the financial institution to release  
34 the moneys to the unit.

35 g. Issues related to visitation, custody, or other

1 provisions not related to levies against accounts are not  
2 grounds for a hearing under this chapter.

3 h. Support orders shall not be modified under a challenge  
4 pursuant to this section.

5 i. Any findings in the challenge of an administrative levy  
6 related to the amount of the accruing or accrued support  
7 obligation do not modify the underlying support order.

8 j. An order entered under this chapter for a levy against  
9 an account of a support obligor has priority over a levy for a  
10 purpose other than the support of the dependents in the court  
11 order being enforced.

12 6. The support obligor may withdraw the request for  
13 challenge by submitting a written withdrawal to the person  
14 identified as the contact for the unit in the notice or the  
15 unit may withdraw the administrative levy at any time prior to  
16 the court hearing and provide notice of the withdrawal to the  
17 obligor and any account holder of interest and to the  
18 financial institution, by regular mail.

19 7. If the financial institution has forwarded moneys to  
20 the collection services center and has deducted a fee from the  
21 moneys of the account, or if any additional fees or costs are  
22 levied against the account, and all funds are subsequently  
23 refunded to the account due to a mistake of fact or ruling of  
24 the court, the child support recovery unit shall reimburse the  
25 account for any fees assessed by the financial institution.  
26 If the mistake of fact is a mistake in the amount of support  
27 due and any portion of the moneys is retained as support  
28 payments, however, the unit is not required to reimburse the  
29 account for any fees or costs levied against the account.

30 Sec. 9. Section 598.23A, subsection 2, unnumbered  
31 paragraph 1, Code Supplement 1993, is amended to read as  
32 follows:

33 If a person is cited for contempt, the court may do either  
34 any of the following:

35 Sec. 10. Section 598.23A, subsection 2, Code Supplement

1 1993, is amended by adding the following new paragraph:

2 NEW PARAGRAPH. c. Require disciplinary action against a  
3 support obligor found to be in arrears until further order of  
4 the court.

5 (1) The court shall not order the removal of the  
6 disciplinary action until the contemnor files proof with the  
7 court verifying that the contemnor's payments are no longer in  
8 arrears.

9 (2) Notice of the court's intent to remove the contemnor's  
10 disciplinary action status shall be provided to the person  
11 entitled to receive support payments or to the child support  
12 recovery unit when the unit is providing enforcement services  
13 pursuant to chapter 252B, at least ten days prior to entry of  
14 an order removing the disciplinary action status. The clerk  
15 of court shall set the matter for hearing within ten days of  
16 any challenge of the court's intent to terminate the action.

17 (3) If the court determines that disciplinary action, or  
18 an extreme hardship upon the contemnor, the court may, in lieu  
19 of disciplinary action status, allow the contemnor to continue  
20 to practice the contemnor's profession on terms established by  
21 the court.

22 (a) Terms established shall be conditioned upon full  
23 compliance with the order or decree for payment of child  
24 support or medical support, including payment in full of the  
25 arrearages.

26 (b) If the court grants tentative terms, the terms shall  
27 provide for suspension of the license or certificate if the  
28 contemnor does not provide monthly proof to the court of full  
29 compliance with the order or decree for payment of child  
30 support or medical support, including payment in full of the  
31 arrearages. Notice of the court's intent to suspend the  
32 license or certificate shall be provided to the contemnor at  
33 least ten days prior to the entry of a suspension order. The  
34 clerk shall set the matter for hearing within ten days of the  
35 challenge to the proposed suspension action.

1 (4) As used in this paragraph, "license" means any license  
2 or renewal of a license, certification, or registration issued  
3 by an agency to a person to conduct a trade or business,  
4 including but not limited to a license to practice a  
5 profession or occupation or to operate a commercial motor  
6 vehicle and "disciplinary action" means supervision,  
7 revocation, or application of probationary status to a license  
8 or certificate.

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## HOUSE FILE 2407

S-5325

1 Amend House File 2407, as amended, passed, and  
2 reprinted by the House as follows:

3 1. Page 9, by striking lines 2 through 35 and  
4 inserting the following:

5 "NEW PARAGRAPH. c. Order the contemnor to  
6 surrender to the court any license held by the  
7 contemnor and enjoin the contemnor from engaging in  
8 the exercise of any activity governed by a surrendered  
9 license.

10 (1) If the court determines that an extreme  
11 hardship will result from surrender of a licensee's  
12 license, the court may allow the contemnor to engage  
13 in the exercise of activity governed by a surrendered  
14 license, subject to terms established by the court.

15 (2) The court order under this paragraph shall be  
16 vacated upon verification that the contemnor has  
17 satisfied all obligations for payment of child support  
18 or medical support including payment in full of the  
19 arrearages.

20 (3) The court order under this paragraph shall not  
21 be vacated or modified without verification that the  
22 contemnor has satisfied all obligations owing or, in  
23 the event that the contemnor is unable to satisfy all  
24 obligations owing, that the contemnor has entered into  
25 an agreement to satisfy all obligations owing over a  
26 period of time which is satisfactory to the court and  
27 that the person entitled to the child support payments  
28 or medical support, or the child support recovery unit  
29 has been provided an opportunity to object. If the  
30 court order is modified to allow exercise of activity  
31 governed by a license pending payment over time, and  
32 if the contemnor does not comply with the modified  
33 order, the modified order shall be deemed vacated and  
34 the original order shall be reinstated, pending a  
35 hearing within ten days, at which time the contemnor  
36 shall be provided an opportunity to demonstrate why  
37 the original order should not be reinstated."

38 2. Page 10, by striking lines 6 through 8 and  
39 inserting the following: "vehicle."

By ELAINE SZYMONIAK

S-5325 FILED MARCH 29, 1994

*Out of Order 3/31/94*

HOUSE FILE 2407

S-5324

- 1 Amend House File 2407, as amended, passed and
- 2 reprinted by the House, as follows:
- 3 1. By striking page 8, line 30 through page 10,
- 4 line 8.

By SHELDON RITTNER  
RANDAL J. GIANNETTO

S-5324 FILED MARCH 29, 1994

*out of order 3/31/94  
(p. 966)*



## HOUSE FILE 2407

S-5342

1 Amend House File 2407 as amended, passed, and  
2 reprinted by the House, as follows:

3 1. Page 8, line 29, by inserting after the word  
4 "account." the following: "Additionally, for the  
5 purposes of reimbursement to the account for any fees  
6 or costs, each certificate of deposit is considered a  
7 separate account."

8 2. By striking page 9, line 2 through page 10,  
9 line 8, and inserting the following:

10 "NEW PARAGRAPH. c. Enjoin the contemnor from  
11 engaging in the exercise of any activity governed by a  
12 license.

13 (1) If the court determines that an extreme  
14 hardship will result from the injunction, the court  
15 order may allow the contemnor to engage in the  
16 exercise of the activity governed by the license,  
17 subject to terms established by the court, which shall  
18 include, at a minimum, that the contemnor enter into  
19 an agreement to satisfy all obligations owing over a  
20 period of time satisfactory to the court.

21 (2) If the court order allows for the exercise of  
22 the activity governed by a license pending  
23 satisfaction of an obligation over time, and the  
24 contemnor fails to comply with the agreement, the  
25 contemnor shall be provided an opportunity for  
26 hearing, within ten days, to demonstrate why an order  
27 enjoining the contemnor from engaging in the exercise  
28 of any activity governed by a license should not be  
29 issued.

30 (3) The court order under this paragraph shall be  
31 vacated only after verification is provided to the  
32 court that the contemnor has satisfied all accrued  
33 obligations owing and that the contemnor has satisfied  
34 all terms established by the court and when the person  
35 entitled to receive support payments, or the child  
36 support recovery unit when the unit is providing  
37 enforcement services pursuant to chapter 252B, has  
38 been provided ten days' notice and an opportunity to  
39 object.

40 (4) As used in this paragraph, "license" means any  
41 license or renewal of a license, certification, or  
42 registration issued by an agency to a person to  
43 conduct a trade or business, including but not limited  
44 to a license to practice a profession or occupation or  
45 to operate a commercial motor vehicle."

By ELAINE SZYMONIAK

S-5342 FILED MARCH 30, 1994

*Adopted 3/31/94 (p. 966)*

## SENATE AMENDMENT TO HOUSE FILE 2407

H-5925

1 Amend House File 2407 as amended, passed, and  
2 reprinted by the House, as follows:

3 1. Page 8, line 29, by inserting after the word  
4 "account." the following: "Additionally, for the  
5 purposes of reimbursement to the account for any fees  
6 or costs, each certificate of deposit is considered a  
7 separate account."

8 2. By striking page 9, line 2 through page 10,  
9 line 8, and inserting the following:

10 "NEW PARAGRAPH. c. Enjoin the contemnor from  
11 engaging in the exercise of any activity governed by a  
12 license.

13 (1) If the court determines that an extreme  
14 hardship will result from the injunction, the court  
15 order may allow the contemnor to engage in the  
16 exercise of the activity governed by the license,  
17 subject to terms established by the court, which shall  
18 include, at a minimum, that the contemnor enter into  
19 an agreement to satisfy all obligations owing over a  
20 period of time satisfactory to the court.

21 (2) If the court order allows for the exercise of  
22 the activity governed by a license pending  
23 satisfaction of an obligation over time, and the  
24 contemnor fails to comply with the agreement, the  
25 contemnor shall be provided an opportunity for  
26 hearing, within ten days, to demonstrate why an order  
27 enjoining the contemnor from engaging in the exercise  
28 of any activity governed by a license should not be  
29 issued.

30 (3) The court order under this paragraph shall be  
31 vacated only after verification is provided to the  
32 court that the contemnor has satisfied all accrued  
33 obligations owing and that the contemnor has satisfied  
34 all terms established by the court and when the person  
35 entitled to receive support payments, or the child  
36 support recovery unit when the unit is providing  
37 enforcement services pursuant to chapter 252B, has  
38 been provided ten days' notice and an opportunity to  
39 object.

40 (4) As used in this paragraph, "license" means any  
41 license or renewal of a license, certification, or  
42 registration issued by an agency to a person to  
43 conduct a trade or business, including but not limited  
44 to a license to practice a profession or occupation or  
45 to operate a commercial motor vehicle."

RECEIVED FROM THE SENATE

H-5925 FILED APRIL 4, 1994

*House Concurred 4-11-94*  
*(p. 1369)*

HSB 708

HUMAN RESOURCES

Zaverland, Ch.  
Mc Neal  
Boddicker

SENATE/HOUSE FILE <sup>Now</sup> 2407  
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 the collection of child support, including  
2 levies against the accounts of certain child support obligors.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 252I.1 DEFINITIONS.

2 As used in this chapter, unless the context otherwise  
3 requires:

4 1. "Account" means "account" as defined in section  
5 524.103, "share account or shares" as defined in section  
6 534.102, the savings or deposits of a member received or being  
7 held by a credit union, or certificates of deposit.

8 2. "Bank" means "bank", "insured bank", "private bank",  
9 and "state bank" as defined in section 524.103.

10 3. "Court order" means "court order" as defined in section  
11 252C.1.

12 4. "Credit union" means "credit union" as defined in  
13 section 533.51.

14 5. "Financial institution" includes a bank, credit union,  
15 or savings and loan association.

16 6. "Obligor" means a person who has been ordered by a  
17 court or administrative authority to pay support.

18 7. "Savings and loan association" means "association" as  
19 defined in section 534.102.

20 8. "Support" or "support payments" means "support" or  
21 "support payments" as defined in section 252D.1.

22 9. "Unit" or "child support recovery unit" means the child  
23 support recovery unit created in section 252B.2.

24 10. "Working days" means only Monday, Tuesday, Wednesday,  
25 Thursday, and Friday, but excluding the holidays specified in  
26 section 1C.2, subsections 1 through 9.

27 Sec. 2. NEW SECTION. 252I.2 PURPOSE AND USE.

28 1. Notwithstanding other statutory provisions which  
29 provide for the execution, attachment, or levy against  
30 accounts, the unit may utilize the process established in this  
31 chapter to collect delinquent support payments provided that  
32 any exemptions or exceptions which specifically apply to  
33 enforcement of support obligations pursuant to other statutory  
34 provisions also apply to this chapter.

35 2. An obligor is subject to the provisions of this chapter

1 if the obligor's support obligation is being enforced by the  
2 child support recovery unit, and if the support payments  
3 ordered under chapter 232, 234, 252A, 252C, 252D, 252E, 252F,  
4 598, 600B, or any other applicable chapter, or under a  
5 comparable statute of a foreign jurisdiction, as certified to  
6 the child support recovery unit, are not paid to the clerk of  
7 the district court or the collection services center pursuant  
8 to section 598.22 and become delinquent in an amount equal to  
9 the support payment for one month.

10 3. Any amount forwarded by a financial institution under  
11 this chapter shall not exceed the amounts specified in 15  
12 U.S.C. § 1673(b) and shall not exceed the delinquent or  
13 accrued amount of support owed by the obligor.

14 Sec. 3. NEW SECTION. 252I.3 INITIAL NOTICE TO OBLIGOR.

15 The unit may proceed under this chapter only if notice has  
16 been provided to the obligor in one of the following manners:

17 1. The obligor is provided notice of the provisions of  
18 this chapter in the court order establishing the support  
19 obligation. The unit or district court may include language  
20 in any new or modified support order issued on or after July  
21 1, 1994, notifying the obligor that the obligor is subject to  
22 the provisions of this chapter.

23 2. The unit may send a notice by regular mail to the last  
24 known address of the obligor, notifying the obligor that the  
25 obligor is subject to the provisions of this chapter, with  
26 proof of service completed according to rule of civil  
27 procedure 82.

28 Sec. 4. NEW SECTION. 252I.4 VERIFICATION OF ACCOUNTS AND  
29 IMMUNITY FROM LIABILITY.

30 1. The unit may contact a financial institution to obtain  
31 verification of the account number, the names and social  
32 security numbers listed for the account, and the account  
33 balance of any account held by an obligor. Contact with a  
34 financial institution may be by telephone or by written  
35 communication. The financial institution may require positive

1 voice recognition and may require the telephone number of the  
2 authorized person from the unit before releasing an obligor's  
3 account information by telephone.

4 2. The financial institution is immune from any liability,  
5 civil or criminal, which might otherwise be incurred or  
6 imposed for any information released by the financial  
7 institution to the unit pursuant to this chapter.

8 3. The financial institution or the unit is not liable for  
9 the cost of any early withdrawal penalty of an obligor's  
10 certificate of deposit.

11 Sec. 5. NEW SECTION. 252I.5 ADMINISTRATIVE LEVY --  
12 NOTICE TO FINANCIAL INSTITUTION.

13 1. If an obligor is subject to this chapter under section  
14 252I.2, the unit may initiate an administrative action to levy  
15 against the accounts of the obligor. If notice has previously  
16 been provided pursuant to section 252I.3, further notice is  
17 not required.

18 2. The unit may send a notice to the financial institution  
19 with which the account is placed, directing that the financial  
20 institution forward all or a portion of the moneys in the  
21 obligor's account or accounts to the collection services  
22 center established pursuant to chapter 252B. The notice shall  
23 be sent by regular mail, with proof of service completed  
24 according to rule of civil procedure 82.

25 3. The notice to the financial institution shall contain  
26 all of the following:

27 a. The name and social security number of the obligor.

28 b. A statement that the obligor is believed to have one or  
29 more accounts at the financial institution.

30 c. A statement that pursuant to the provisions of this  
31 chapter, the obligor's accounts are subject to seizure and the  
32 financial institution is authorized and required to forward  
33 moneys to the collection services center.

34 d. The maximum amount that shall be forwarded by the  
35 financial institution, which shall not exceed the delinquent

1 or accrued amount of support owed by the obligor.

2 e. The prescribed time frame which the financial  
3 institution must meet in forwarding amounts.

4 f. The address of the collection services center and the  
5 collection services center account number.

6 g. A telephone number, address, and contact name of the  
7 child support recovery unit contact initiating the action.

8 Sec. 6. NEW SECTION. 252I.6 ADMINISTRATIVE LEVY --  
9 NOTICE TO SUPPORT OBLIGOR.

10 1. The unit may administratively initiate an action to  
11 seize accounts of an obligor who is subject to this chapter  
12 under section 252I.2.

13 2. The unit shall notify an obligor subject to this  
14 chapter, and any other party known to have an interest in the  
15 account, of the action. The notice shall contain all of the  
16 following:

17 a. The name and social security number of the obligor.

18 b. A statement that the obligor is believed to have one or  
19 more accounts at the financial institution.

20 c. A statement that pursuant to the provisions of this  
21 chapter, the obligor's accounts are subject to seizure and the  
22 financial institution is authorized and required to forward  
23 moneys to the collection services center.

24 d. The maximum amount to be forwarded by the financial  
25 institution, which shall not exceed the delinquent or accrued  
26 amount of support owed by the obligor.

27 e. The prescribed time frames within which the financial  
28 institution must comply.

29 f. A statement that any challenge to the action shall be  
30 in writing and shall be received by the child support recovery  
31 unit within ten days of the date of the notice to the obligor.

32 g. The address of the collection services center and the  
33 collection services center account number.

34 h. A telephone number, address, and contact name for the  
35 child support recovery unit contact initiating the action.

1 3. The unit shall forward the notice to the obligor by  
2 regular mail within two working days of sending the notice to  
3 the financial institution pursuant to section 252I.5. Proof  
4 of service shall be completed according to rule of civil  
5 procedure 82.

6 Sec. 7. NEW SECTION. 252I.7 RESPONSIBILITIES OF  
7 FINANCIAL INSTITUTION.

8 Upon receipt of a notice under section 252I.5, the  
9 financial institution shall do all of the following:

10 1. Immediately encumber funds in all accounts in which the  
11 obligor has an interest to the extent of the debt indicated in  
12 the notice from the unit.

13 2. No sooner than fifteen days, and no later than twenty  
14 days from the date the financial institution receives the  
15 notice under section 252I.5, unless notified by the unit of a  
16 challenge by the obligor or an account holder of interest, the  
17 financial institution shall forward the moneys encumbered to  
18 the collection services center with the obligor's name and  
19 social security number, collection services center account  
20 number, and any other information required in the notice.

21 3. The financial institution may assess a fee against the  
22 obligor, not to exceed ten dollars, for forwarding of moneys  
23 to the collection services center. This fee is in addition to  
24 the amount of support due. In the event that there are  
25 insufficient moneys to cover the fee and the support amount  
26 due, the institution may deduct the fee amount prior to  
27 forwarding moneys to the collection services center and the  
28 amount credited to the support obligation shall be reduced by  
29 the fee amount.

30 Sec. 8. NEW SECTION. 252I.8 CHALLENGES TO ACTION.

31 1. Challenges under this chapter may be initiated only by  
32 an obligor or by an account holder of interest. Actions  
33 initiated by the unit under this chapter are not subject to  
34 chapter 17A, and resulting court hearings following  
35 certification shall be an original hearing before the district



1 court.

2 2. The person challenging the action shall submit a  
3 written challenge to the person identified as the contact for  
4 the unit in the notice, within ten working days of the date of  
5 the notice.

6 3. The unit shall, upon receipt of a written challenge,  
7 review the facts of the case with the challenging party. Only  
8 a mistake of fact, including but not limited to, a mistake in  
9 the identity of the obligor or a mistake in the amount of  
10 delinquent support due shall be considered as a reason to  
11 dismiss or modify the proceeding.

12 4. If the unit determines that a mistake of fact has  
13 occurred the unit shall proceed as follows:

14 a. If a mistake in identity has occurred or the obligor is  
15 not delinquent in an amount equal to the payment for one  
16 month, the unit shall notify the financial institution that  
17 the administrative levy has been released. The unit shall  
18 provide a copy of the notice to the support obligor by regular  
19 mail.

20 b. If the obligor is delinquent, but the amount of the  
21 delinquency is less than the amount indicated in the notice,  
22 the unit shall notify the financial institution of the revised  
23 amount with a copy of the notice and issue a copy to the  
24 obligor or forward a copy to the obligor by regular mail.  
25 Upon written receipt of instructions from the unit, the  
26 financial institution shall release the funds in excess of the  
27 revised amount to the obligor and the moneys in the amount of  
28 the debt shall be processed according to section 252I.7.

29 5. If the unit finds no mistake of fact, the unit shall  
30 provide a notice to that effect to the challenging party by  
31 regular mail. Upon written request of the challenging party,  
32 the unit shall request a hearing before the district court in  
33 the county in which the underlying support order is filed.

34 a. The financial institution shall encumber moneys if the  
35 child support recovery unit notifies the financial institution

1 to do so.

2 b. The clerk of the district court shall schedule a  
3 hearing upon the request by the unit for a time not later than  
4 ten calendar days after the filing of the request for hearing.  
5 The clerk shall mail copies of the request for hearing and the  
6 order scheduling the hearing to the unit and to all account  
7 holders of interest.

8 c. If the court finds that there is a mistake of identity  
9 or that the obligor does not owe the delinquent support, the  
10 unit shall notify the financial institution that the  
11 administrative levy has been released.

12 d. If the court finds that the obligor has an interest in  
13 the account, and the amount of support due was incorrectly  
14 overstated, the unit shall notify the financial institution to  
15 release the excess moneys to the obligor and remit the  
16 remaining moneys in the amount of the debt to the collection  
17 services center for disbursement to the appropriate recipient.

18 e. If the court finds that the obligor has an interest in  
19 the account, and the amount of support due is correct, the  
20 financial institution shall forward the moneys to the  
21 collection services center for disbursement to the appropriate  
22 recipient.

23 f. If the obligor or any other party known to have an  
24 interest in the account fails to appear at the hearing, the  
25 court may find the challenging party in default, shall ratify  
26 the administrative levy, if valid upon its face, and shall  
27 enter an order directing the financial institution to release  
28 the moneys to the unit.

29 g. Issues related to visitation, custody, or other  
30 provisions not related to levies against accounts are not  
31 grounds for a hearing under this chapter.

32 h. Support orders shall not be modified under a challenge  
33 pursuant to this section.

34 i. Any findings in the challenge of an administrative levy  
35 related to the amount of the accruing or accrued support

1 obligation do not modify the underlying support order.

2 j. An order entered under this chapter for a levy against  
3 an account of a support obligor has priority over a levy for a  
4 purpose other than the support of the dependents in the court  
5 order being enforced.

6 6. The support obligor may withdraw the request for  
7 challenge by submitting a written withdrawal to the person  
8 identified as the contact for the unit in the notice or the  
9 unit may withdraw the administrative levy at any time prior to  
10 the court hearing and provide notice of the withdrawal to the  
11 obligor and any account holder of interest and to the  
12 financial institution, by regular mail.

13 7. If the financial institution has forwarded moneys to  
14 the collection services center and has deducted a fee from the  
15 moneys of the account, or if any additional fees or costs are  
16 levied against the account, and all funds are subsequently  
17 refunded to the account due to a mistake of fact or ruling of  
18 the court, the child support recovery unit shall reimburse the  
19 account for any fees assessed by the financial institution.  
20 If the mistake of fact is a mistake in the amount of support  
21 due and any portion of the moneys is retained as support  
22 payments, however, the unit is not required to reimburse the  
23 account for any fees or costs levied against the account.

24 EXPLANATION

25 This bill provides a procedure for initiating levies  
26 against the bank accounts of child support obligors and other  
27 account holders of interest against whom a support obligation  
28 is being enforced by the child support recovery unit, if  
29 support is delinquent in an amount equal to the support  
30 payment for one month. The bill provides for notice to the  
31 obligor and other account holders, notice to the financial  
32 institution in which the account is held, a procedure for an  
33 administrative levy and for a challenge of administrative  
34 procedure, and for responsibilities of financial institutions.

35 BACKGROUND STATEMENT

SUBMITTED BY THE AGENCY

1  
2 This initiative is for use as an administrative enforcement  
3 and collection tool. This initiative will simplify and  
4 replace the existing garnishment process because it is less  
5 expensive and involves less paperwork and is the basis for  
6 moving forward when a new 1099 information form is readily  
7 available. Obligor will be notified that assets are subject  
8 to attachment. Once an account is verified, assets and  
9 accounts can be attached by the department of human services,  
10 upon written notice to a financial institution, at any time  
11 subsequent to the time that original notice is provided to the  
12 obligor.

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HOUSE FILE 2407

AN ACT

RELATING TO THE COLLECTION OF CHILD SUPPORT, INCLUDING LEVIES AGAINST THE ACCOUNTS OF CERTAIN CHILD SUPPORT OBLIGORS AND INCLUDING AFFECTING OF THE PROFESSIONAL LICENSURE OR CERTIFICATION STATUS OF AN OBLIGOR HELD IN CONTEMPT OF COURT.

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

Section 1. NEW SECTION. 2521.1 DEFINITIONS.

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

1. "Account" means "account" as defined in section 524.103, "share account or shares" as defined in section 534.102, the savings or deposits of a member received or being held by a credit union, or certificates of deposit, "Account" also includes deposits held by an agent, a broker-dealer, or an issuer as defined in section 502.102. However, "account" does not include amounts held by a financial institution as collateral for loans extended by the financial institution.
2. "Bank" means "bank", "insured bank", "private bank", and "state bank" as defined in section 524.103.
3. "Court order" means "court order" as defined in section 252C.1.
4. "Credit union" means "credit union" as defined in section 532.51.
5. "Financial institution" includes a bank, credit union, or savings and loan association. "Financial institution" also includes an institution which holds deposits for an agent, broker-dealer, or an issuer as defined in section 502.102.
6. "Obligor" means a person who has been ordered by a court or administrative authority to pay support.

7. "Savings and loan association" means "association" as defined in section 534.102.

8. "Support" or "support payments" means "support" or "support payments" as defined in section 252D.1.

9. "Unit" or "child support recovery unit" means the child support recovery unit created in section 252B.2.

10. "Working days" means only Monday, Tuesday, Wednesday, Thursday, and Friday, but excluding the holidays specified in section 1C.2, subsections 1 through 9.

Sec. 2. NEW SECTION. 2521.2 PURPOSE AND USE.

1. Notwithstanding other statutory provisions which provide for the execution, attachment, or levy against accounts, the unit may utilize the process established in this chapter to collect delinquent support payments provided that any exemptions or exceptions which specifically apply to enforcement of support obligations pursuant to other statutory provisions also apply to this chapter.

2. An obligor is subject to the provisions of this chapter if the obligor's support obligation is being enforced by the child support recovery unit, and if the support payments ordered under chapter 232, 234, 252A, 252C, 252D, 252E, 252F, 598, 600B, or any other applicable chapter, or under a comparable statute of a foreign jurisdiction, as certified to the child support recovery unit, 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 support payment for the month.

3. Any amount forwarded by a financial institution under this chapter shall not exceed the amounts specified in 15 U.S.C. § 1631b) and shall not exceed the delinquent or accrued amount of support owed by the obligor.

Sec. 3. NEW SECTION. 2521.3 INITIAL NOTICE TO OBLIGOR.

The unit may proceed under this chapter only if notice has been provided to the obligor in one of the following manners:

1. The obligor is provided notice of the provisions of this chapter in the court order establishing the support obligation. The unit or district court may include language in any new or modified support order issued on or after July 1, 1994, notifying the obligor that the obligor is subject to the provisions of this chapter.

2. The unit may send a notice by regular mail to the last known address of the obligor, notifying the obligor that the obligor is subject to the provisions of this chapter, with proof of service completed according to rule of civil procedure 87.

#### SEC. 4. NEW SECTION. 2521.4 VERIFICATION OF ACCOUNTS AND IMMUNITY FROM LIABILITY.

1. The unit may contact a financial institution to obtain verification of the account number, the names and social security numbers listed for the account, and the account balance of any account held by an obligor. Contact with a financial institution may be by telephone or by written communication. The financial institution may require positive voice recognition and may require the telephone number of the authorized person from the unit before releasing an obligor's account information by telephone.

2. The financial institution is immune from any liability, civil or criminal, which might otherwise be incurred or imposed for any information released by the financial institution to the unit pursuant to this chapter.

3. The financial institution or the unit is not liable for the cost of any early withdrawal penalty of an obligor's certificate of deposit.

#### SEC. 5. NEW SECTION. 2521.5 ADMINISTRATIVE LEVY -- NOTICE TO FINANCIAL INSTITUTION

1. If an obligor is subject to this chapter under section 2521.3, the unit may initiate an administrative action to levy against the accounts of the obligor. If notice has previously been provided pursuant to section 2521.3, further notice is not required.

2. The unit may send a notice to the financial institution with which the account is placed, directing that the financial institution forward all or a portion of the moneys in the obligor's account or accounts to the collection services center established pursuant to chapter 2529. The notice shall be sent by regular mail, with proof of service completed according to rule of civil procedure 87.

3. The notice to the financial institution shall contain all of the following:

- a. The name and social security number of the obligor.
  - b. A statement that the obligor is believed to have one or more accounts at the financial institution.
  - c. A statement that pursuant to the provisions of this chapter, the obligor's accounts are subject to seizure and the financial institution is authorized and required to forward moneys to the collection services center.
  - d. The maximum amount that shall be forwarded by the financial institution, which shall not exceed the delinquent or accrued amount of support owed by the obligor.
  - e. The prescribed time frame within which the financial institution must meet in forwarding amounts.
  - f. The address of the collection services center and the collection services center account number.
  - g. A telephone number, address, and contact name of the child support recovery unit contact initiating the action.
- SEC. 6. NEW SECTION. 2521.6 ADMINISTRATIVE LEVY -- NOTICE TO SUPPORT OBLIGOR
1. The unit may administratively initiate an action to seize accounts of an obligor who is subject to this chapter under section 2521.3.
2. The unit shall notify an obligor subject to this chapter, and any other party known to have an interest in the account, of the action. The notice shall contain all of the following:
- a. The name and social security number of the obligor

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the collection services center with the obligor's name and social security number, collection services center account number, and any other information required in the notice.

3. The financial institution may assess a fee against the obligor, not to exceed ten dollars, for forwarding of moneys to the collection services center. This fee is in addition to the amount of support due. In the event that there are insufficient moneys to cover the fee and the support amount due, the institution may deduct the fee amount prior to forwarding moneys to the collection services center and the amount credited to the support obligation shall be reduced by the fee amount.

#### SEC. 8. NEW SECTION. 2521.8 CHALLENGES TO ACTION.

1. Challenges under this chapter may be initiated only by an obligor or by an account holder of interest. Actions initiated by the unit under this chapter are not subject to chapter 17A, and resulting court hearings following certification shall be an original hearing before the district court.

2. The person challenging the action shall submit a written challenge to the person identified as the contact for the unit in the notice, within ten working days of the date of the notice.

3. The unit shall, upon receipt of a written challenge, review the facts of the case with the challenging party. Only a mistake of fact, including but not limited to a mistake in the identity of the obligor or a mistake in the amount of delinquent support due shall be considered as a reason to dismiss or modify the proceeding.

4. If the unit determines that a mistake of fact has occurred, the unit shall proceed as follows:

1. If a mistake in identity has occurred or the obligor is not delinquent in an amount equal to the payment for one month, the unit shall notify the financial institution that the administrative levy has been released. The unit shall

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b. A statement that the obligor is believed to have one or more accounts at the financial institution.

c. A statement that pursuant to the provisions of this chapter, the obligor's accounts are subject to seizure and the financial institution is authorized and required to forward moneys to the collection services center.

d. The maximum amount to be forwarded by the financial institution, which shall not exceed the delinquent or accrued amount of support owed by the obligor.

e. The prescribed time frames within which the financial institution must comply.

f. A statement that any challenge to the action shall be in writing and shall be received by the child support recovery unit within ten days of the date of the notice to the obligor.

g. The address of the collection services center and the collection services center account number.

h. A telephone number, address, and contact name for the child support recovery unit contact initiating the action.

3. The unit shall forward the notice to the obligor by regular mail within two working days of sending the notice to the financial institution pursuant to section 2521.5. Proof of service shall be completed according to rule of civil procedure 82.

#### SEC. 7. NEW SECTION. 2521.7 RESPONSIBILITIES OF FINANCIAL INSTITUTION.

Upon receipt of a notice under section 2521.5, the financial institution shall do all of the following:

1. Immediately encumber funds in all accounts in and to the obligor has an interest to the extent of the debt indicated in the notice from the unit.

2. No later than fifteen days, and no later than twenty days from the date the financial institution receives the notice under section 2521.5, unless notified by the unit of a challenge by the obligor or an account holder of interest, the financial institution shall forward the moneys encumbered to

provide a copy of the notice to the support obligor by regular mail.

b. If the obligor is delinquent, but the amount of the delinquency is less than the amount indicated in the notice, the unit shall notify the financial institution of the revised amount with a copy of the notice and issue a copy to the obligor or forward a copy to the obligor by regular mail. Upon written receipt of instructions from the unit, the financial institution shall release the funds in excess of the revised amount to the obligor and the moneys in the amount of the debt shall be processed according to section 2521.7.

5. If the unit finds no mistake of fact, the unit shall provide a notice to that effect to the challenging party by regular mail. Upon written request of the challenging party, the unit shall request a hearing before the district court in the county in which the underlying support order is filed.

a. The financial institution shall encumber moneys if the child support recovery unit notifies the financial institution to do so.

b. The clerk of the district court shall schedule a hearing upon the request by the unit for a time not later than ten calendar days after the filing of the request for hearing. The clerk shall mail copies of the request for hearing and the order scheduling the hearing to the unit and to all account holders of interest.

c. If the court finds that there is a mistake of identity or that the obligor does not owe the delinquent support, the unit shall notify the financial institution that the administrative levy has been released.

d. If the court finds that the obligor has an interest in the account, and the amount of support due was incorrectly overrated, the unit shall notify the financial institution to release the excess moneys to the obligor and remit the remaining moneys in the amount of the debt to the collection services center for disbursement to the appropriate recipient.

e. If the court finds that the obligor has an interest in the account, and the amount of support due is correct, the financial institution shall forward the moneys to the collection services center for disbursement to the appropriate recipient.

f. If the obligor or any other party known to have an interest in the account fails to appear at the hearing, the court may find the challenging party in default, shall ratify the administrative levy, if valid upon its face, and shall enter an order directing the financial institution to release the moneys to the unit.

9. Issues related to visitation, custody, or other provisions not related to levies against accounts are not grounds for a hearing under this chapter.

h. Support orders shall not be modified under a challenge pursuant to this section.

i. Any findings in the challenge of an administrative levy related to the amount of the accruing or accrued support obligation do not modify the underlying support order.

j. An order entered under this chapter for a levy against an account of a support obligor has priority over a levy for a purpose other than the support of the dependents in the court order being enforced.

k. The support obligor may withdraw the request for challenge by submitting a written withdrawal to the person identified as the contact for the unit in the notice or the unit may withdraw the administrative levy at any time prior to the court hearing and provide notice of the withdrawal to the obligor and any account holder of interest and to the financial institution, by regular mail.

7. If the financial institution has forwarded moneys to the collection services center and has deducted a fee from the moneys of the account, or if any additional fees or costs are levied against the account, and all funds are subsequently refunded to the account due to a mistake of fact or filing of



the court, the child support recovery unit shall reimburse the account for any fees assessed by the financial institution. If the mistake of fact is a mistake in the amount of support due and any portion of the moneys is retained as support payments, however, the unit is not required to reimburse the account for any fees or costs levied against the account. Additionally, for the purposes of reimbursement to the account for any fees or costs, each certificate of deposit is considered a separate account.

Sec. 9. Section 598.23A, subsection 2, unnumbered paragraph 1, Code Supplement 1993, is amended to read as follows:

If a person is cited for contempt, the court may do either any of the following.

Sec. 10. Section 598.23A, subsection 2, Code Supplement 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Enjoin the contemnor from engaging in the exercise of any activity governed by a license.

(1) If the court determines that an extreme hardship will result from the injunction, the court order may allow the contemnor to engage in the exercise of the activity governed by the license, subject to terms established by the court, which shall include, at a minimum, that the contemnor enter into an agreement to satisfy all obligations owing over a period of time satisfactory to the court.

(2) If the court order allows for the exercise of the activity governed by a license pending satisfaction of an obligation over time, and the contemnor fails to comply with the agreement, the contemnor shall be provided an opportunity for hearing, within ten days, to demonstrate why an order enjoining the contemnor from engaging in the exercise of any activity governed by a license should not be issued.

(3) The court order under this paragraph shall be vacated only after verification is provided to the court that the contemnor has satisfied all accrued obligations owing and that

the contemnor has satisfied all terms established by the court and when the person entitled to receive support payments, or the child support recovery unit when the unit is providing enforcement services pursuant to chapter 252B, has been provided ten days' notice and an opportunity to object.

(4) As used in this paragraph, "license" means any license or renewal of a license, certification, or registration issued by an agency to a person to conduct a trade or business, including but not limited to a license to practice a profession or occupation or to operate a commercial motor vehicle.

\_\_\_\_\_  
HAROLD VAN MAAREN  
Speaker of the House

\_\_\_\_\_  
LEONARD L. BOSWELL  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2407, Seventy-fifth General Assembly.

\_\_\_\_\_  
ELIZABETH ISAACSON  
Chief Clerk of the House

Approved *April 19, 1994*

\_\_\_\_\_  
TERRY E. BRANSTAD  
Governor