

JAN 11 1996

HUMAN RESOURCES

HOUSE FILE

2053

BY RANTS

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to child support by requiring a report of
 2 expenditures from recipients of support, by providing for
 3 income withholding only for payment of delinquent support, by
 4 allowing for modification of support orders if visitation
 5 requirements in an order are willfully disobeyed, by providing
 6 penalties, and by providing effective dates.

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

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HF 2053

1 Section 1. NEW SECTION. 252B.22 SUPPORT PAYMENTS --
2 ACCOUNTING OF EXPENDITURES -- CONTEMPTS.

3 1. The individual named as the recipient of child support
4 payments on behalf of a child in accordance with a child
5 support order shall maintain a record of expenditures of the
6 support received and shall, annually, on or before January 1,
7 provide a written copy of the record of expenditures to the
8 obligor.

9 2. A person who willfully fails to comply with this
10 section may be cited and punished by the court for contempt
11 and be committed to the county jail for a period of time not
12 to exceed thirty days for each offense.

13 Sec. 2. Section 252D.8, subsection 1, unnumbered paragraph
14 1, Code 1995, is amended to read as follows:

15 In a support order issued or modified on or after November
16 1, 1990, for which services are being provided by the child
17 support recovery unit, and in any support orders issued or
18 modified after January 1, 1994, for which services are not
19 provided by the child support recovery unit, the income of a
20 support obligor is subject to withholding, on the effective
21 date of the order, ~~regardless-of-whether~~ if support payments
22 by the obligor are in arrears. If services are being provided
23 pursuant to chapter 252B, the child support recovery unit may
24 enter an ex parte order for an immediate withholding of
25 income. The district court may enter an ex parte order for
26 immediate income withholding for cases in which the child
27 support recovery unit is not providing services. The income
28 of the obligor is subject to immediate withholding unless one
29 of the following occurs:

30 Sec. 3. Section 252D.8, subsection 2, unnumbered paragraph
31 1, Code 1995, is amended to read as follows:

32 For an order not requiring immediate withholding, income of
33 an obligor is subject to immediate withholding, ~~without-regard~~
34 ~~to-whether~~ if there is an arrearage, on the earliest of the
35 following:

1 Sec. 4. Section 252D.9, Code 1995, 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. 5. Section 252D.18, subsection 3, Code 1995, is
11 amended by striking the subsection.

12 Sec. 6. Section 252D.18A, subsection 3, Code 1995, is
13 amended to read as follows:

14 ~~3.--Priority-shall-be-given-to-the-withholding-of-current~~
15 ~~support-rather-than-delinquent-support.--The-payor-shall-not~~
16 ~~allocate-amounts-withheld-in-a-manner-which-results-in-the~~
17 ~~failure-to-withhold-an-amount-for-one-or-more-of-the-current~~
18 ~~support-obligations.~~

19 a. 3. To arrive at the amount to be withheld for each
20 obligee, the payor shall total the amounts due for ~~current~~
21 delinquent support under the income withholding orders and
22 determine the proportionate share for each obligee. The
23 proportionate share shall be determined by dividing the amount
24 due for ~~current~~ delinquent support for each order by the total
25 due for ~~current~~ delinquent support for all orders. The
26 results are the percentages of the obligor's net income which
27 shall be withheld for each obligee.

28 ~~b.--If,-after-completing-the-calculation-in-paragraph-"a",~~
29 ~~the-withholding-limit-specified-under-15-U.S.C.-§-1673(b)-has~~
30 ~~not-been-attained,-the-payor-shall-total-the-amounts-due-for~~
31 ~~arrearages-and-determine-the-proportionate-share-for-each~~
32 ~~obligee.--The-proportionate-share-amounts-shall-be-established~~
33 ~~utilizing-the-procedures-established-in-paragraph-"a"-for~~
34 ~~current-support-obligations.~~

35 Sec. 7. Section 252D.18C, Code 1995, is amended to read as

1 follows:

2 252D.18C WITHHOLDING FROM LUMP SUM PAYMENTS.

3 The child support recovery unit or the district court may
4 enter an ex parte order for income withholding when the
5 obligor is paid by a lump sum income source. When a sole
6 payment is made or payment occurs at two-month or greater
7 intervals, the withholding order may include all current-and
8 delinquent support due through the current month, but shall
9 not exceed the amounts specified in 15 U.S.C. § 1673(b).

10 Sec. 8. Section 598.23, subsection 2, Code 1995, is
11 amended by adding the following new paragraph:

12 NEW PARAGRAPH. c. Modifies a child support order to
13 terminate payment of support paid by a parent who has not been
14 awarded physical custody of a child, if the parent who has
15 been awarded physical custody of the child willfully disobeys
16 the visitation provisions of an order.

17 Sec. 9. NOTIFICATION REQUIREMENTS. The child support
18 recovery unit or the clerks of the district court,
19 respectively, shall notify all recipients and payors of child
20 support of the requirements of section 252B.22, as enacted in
21 this Act.

22 Sec. 10. FEDERAL WAIVERS. The department of human
23 services shall submit a waiver request or requests to the
24 United States department of health and human services as
25 necessary for federal authorization to implement the policy
26 changes in the collection of child support obligations
27 provided under this Act.

28 Sec. 11. EFFECTIVE DATES.

29 1. Section 1 of this Act takes effect January 1, 1997.

30 2. Section 9 of this Act, being deemed of immediate
31 importance, takes effect upon enactment.

32 3. Sections 2 through 7 of this Act are effective July 1,
33 1996, or upon receipt of a waiver from the United States
34 department of health and human services, if necessary,
35 whichever is later. The director of the department of human

1 services shall notify the secretary of state and the Code
2 editor if a waiver is or is not necessary in order to
3 implement sections 2 through 8 of this Act.

4 EXPLANATION

5 This bill relates to child support recovery. The bill
6 provides for the accounting of expenditures of child support
7 payments by an individual named as the recipient of child
8 support payments, on an annual basis as specified in a child
9 support order. A person who willfully fails to make such an
10 accounting may be cited and punished by the court for
11 contempt. The bill requires the department of human services
12 or the clerk of the district court to notify all recipients
13 and payors of child support of the requirement of the annual
14 accounting. This provision is effective January 1, 1997, with
15 the exception of the directive to the department and the clerk
16 of the district court requiring notification of the parties of
17 the new requirement, which is effective upon enactment.

18 The bill provides for withholding of an obligor's income to
19 collect support only if support payments are in arrears.
20 Currently, the income of an obligor is subject to withholding
21 whether or not there is an arrearage. The department of human
22 services is directed to seek any federal waivers which might
23 be necessary in implementing the policy of collection through
24 income withholding only in cases in which delinquent support
25 is owed. This provision is effective July 1, 1996, or upon
26 receipt of a waiver from the United States department of
27 health and human services, if the waiver is necessary.

28 The bill also provides that if a person is held in contempt
29 for willfully disobeying the visitation provisions of an
30 order, the court may, as an alternative to punishment for
31 contempt, modify a child support order to terminate payment of
32 support paid by a parent who has not been awarded physical
33 custody of the child.

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