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SENATE FILE 149
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO SSB 96)

Passed Senate, Date ^(p. 380) 2/16/95 Passed House, Date ^(p. 1547) 4/13/95
Vote: Ayes 48 Nays 0 Vote: Ayes 94 Nays 3
Approved April 24, 1995

A BILL FOR

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

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S.F. 149

1 Section 1. Section 234.39, subsection 1, Code 1995, is
2 amended to read as follows:

3 1. For an individual to whom section 234.35, subsection 1,
4 is applicable, a dispositional order of the juvenile court
5 requiring the provision of foster care, or an administrative
6 order entered pursuant to chapter 252C, or any order
7 establishing paternity and support for a child in foster care,
8 shall establish, after notice and a reasonable opportunity to
9 be heard is provided to a parent or guardian, the amount of
10 the parent's or guardian's support obligation for the cost of
11 foster care provided by the department. ~~The court, or the~~
12 ~~department of human services in establishing support by~~
13 ~~administrative order, shall establish the~~ amount of the
14 parent's or guardian's support obligation and the amount of
15 support debt accrued and accruing shall be established in
16 accordance with the child support guidelines prescribed under
17 section 598.21, subsection 4. However, the court, or the
18 department of human services in establishing support by
19 administrative order, may deviate from the prescribed
20 obligation after considering a recommendation by the
21 department for expenses related to goals and objectives of a
22 case permanency plan as defined under section 237.15, and upon
23 written findings of fact which specify the reason for
24 deviation and the prescribed guidelines amount. Any order for
25 support shall direct the payment of the support obligation to
26 the collection services center for the use of the department's
27 foster care recovery unit. The order shall be filed with the
28 clerk of the district court in which the responsible parent or
29 guardian resides and has the same force and effect as a
30 judgment when entered in the judgment docket and lien index.
31 The collection services center shall disburse the payments
32 pursuant to the order and record the disbursements. If
33 payments are not made as ordered, the child support recovery
34 unit may certify a default to the court and the court may, on
35 its own motion, proceed under section 598.22 or 598.23 or the

1 child support recovery unit may enforce the judgment as
2 allowed by law. An order entered under this subsection may be
3 modified only in accordance with the guidelines prescribed
4 under section 598.21, subsection 8.

5 Sec. 2. Section 252A.3A, subsection 2, unnumbered
6 paragraph 1, Code 1995, is amended to read as follows:

7 ~~Establishment-of~~ When paternity has not been legally
8 established, paternity may be established by affidavit under
9 ~~this section may-be-used-to-establish-paternity-of~~ for the
10 following children:

11 Sec. 3. Section 252C.3, subsection 1, paragraph a, Code
12 1995, is amended to read as follows:

13 a. A statement that the support obligation will be set
14 pursuant to the child support guidelines established pursuant
15 to section 598.21, subsection 4, and the criteria established
16 pursuant to section 252B.7A, and that the responsible person
17 is required to provide medical support in accordance with
18 chapter 252E.

19 Sec. 4. Section 252C.3, subsection 1, paragraph c, Code
20 1995, is amended by striking the paragraph.

21 Sec. 5. Section 252D.17, unnumbered paragraph 1, Code
22 1995, is amended to read as follows:

23 The child support recovery unit or the district court shall
24 provide notice ~~of~~ by sending a copy of the order for income
25 withholding to the obligor's employer, trustee, or other payor
26 of income. ~~---Notice-shall-be-sent~~ by regular mail, with proof
27 of service completed according to rule of civil procedure 82
28 ~~and,--in.~~ The order may be sent to the employer, trustee, or
29 other payor of income on the same date that the order is sent
30 to the clerk of court for filing. In addition to the amount
31 to be withheld for payment of support, the order shall include
32 all of the following information regarding the duties of the
33 payor in implementing the withholding order:

34 Sec. 6. Section 252D.17, subsection 4, Code 1995, is
35 amended to read as follows:

1 4. ~~Income~~ The income withholding order is binding on an
2 existing or future employer, trustee, or other payor ten days
3 after receipt of the notice copy of the order, and is binding
4 whether or not the copy of the order received is file-stamped.

5 Sec. 7. Section 252D.23, Code 1995, is amended to read as
6 follows:

7 252D.23 FILING OF WITHHOLDING ORDER -- ORDER EFFECTIVE AS
8 DISTRICT COURT ORDER.

9 An income withholding order entered by the child support
10 recovery unit pursuant to this chapter shall be filed with the
11 clerk of the district court. ~~Upon-filing,-for~~ For the
12 purposes of demonstrating compliance by the employer, trustee,
13 or other payor, the copy of the withholding order received,
14 whether or not the copy is file-stamped, shall have all the
15 force, effect, and attributes of a docketed order of the
16 district court including, but not limited to, availability of
17 contempt of court proceedings against an employer, trustee, or
18 other payor for noncompliance. However, any information
19 contained in the income withholding order related to the
20 amount of the accruing or accrued support obligation which
21 does not reflect the correct amount of support due does not
22 modify the underlying support judgment.

23 Sec. 8. Section 598.21, subsection 4A, paragraph c, Code
24 1995, is amended to read as follows:

25 c. Notwithstanding paragraph "a", in a pending dissolution
26 action under this chapter, a prior determination of paternity
27 by operation of law through the marriage of the established
28 father and mother of the child may be overcome under this
29 chapter if the following conditions are met:

30 (1) The established father and mother of the child submit
31 file a written statement with the court that both parties
32 agree that the established father is not the biological father
33 of the child ~~and-the.~~

34 (2) The court finds that it is in the best interest of the
35 child to overcome the established paternity. In determining

1 the best interest of the child, the court shall consider the
2 criteria provided in section 600B.41A, subsection 3, paragraph
3 "g".

4 If the court overcomes a prior determination of paternity,
5 the previously established father shall be relieved of support
6 obligations as specified in section 600B.41A, subsection 4.
7 In any action to overcome paternity other than through a
8 pending dissolution action, the provisions of section 600B.41A
9 apply. Overcoming paternity under this paragraph does not bar
10 subsequent actions to establish paternity if it is
11 subsequently determined that the written statement attesting
12 that the established father is not the biological father of
13 the child may have been submitted erroneously, and that the
14 person previously determined not to be the child's father
15 during the dissolution action may actually be the child's
16 biological father.

17 Sec. 9. Section 600B.41, subsection 2, Code 1995, is
18 amended to read as follows:

19 2. If a blood or genetic test is required, the court shall
20 direct that inherited characteristics~~7-including-but-not~~
21 ~~limited-to-blood-types7~~, be determined by appropriate testing
22 procedures, and shall appoint an expert qualified as an
23 examiner of genetic markers to analyze and interpret the
24 results and to report to the court.

25 EXPLANATION

26 This bill amends areas of the Code relating to child
27 support recovery.

28 Section 1 provides that if the department of human services
29 is responsible for the foster care costs of a child, any order
30 establishing paternity and support for the child shall
31 establish the obligation of the parent or guardian for the
32 cost of foster care provided by the department.

33 Section 2 of the bill provides that establishment of
34 paternity by affidavit is only applicable when paternity has
35 not previously been legally established.

1 Sections 3 and 4 of the bill delete Code language which
2 requires that the notice of support debt issued prior to
3 administrative establishment of support include a demand for
4 immediate payment of the support or medical support debt or
5 both and amends a previous paragraph to provide for only
6 notice of the duty to provide medical support.

7 Sections 5 through 7 provide that an income withholding
8 order may be sent to an employer or other payor of income on
9 the same date that it is sent to the clerk of court for filing
10 and that the order is binding on the income payor whether or
11 not the income payor has received a file-stamped copy.

12 Section 8 restricts use of the procedure in section
13 598.21(4A)(c) regarding overcoming paternity established by
14 operation of law through marriage to pending dissolution
15 actions under chapter 598, provides that any other action to
16 overcome paternity shall be pursuant to section 600B.41A, and
17 provides that if paternity is overcome under this section, the
18 previously established father is relieved of support
19 obligations unless it is subsequently determined that
20 paternity may have been incorrectly overcome.

21 Section 9 deletes language regarding blood or genetic
22 testing so that in an action for establishment of paternity in
23 which the court requires testing of inherited characteristics,
24 a determination of blood types is no longer required.

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Neuhauer. Ch
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SSB-96
Human Resources

Succeeded By
SENATE/HOUSE FILE 149
BY (PROPOSED DEPARTMENT OF
HUMAN SERVICES BILL)

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

A BILL FOR

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3 "g".

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8 pending dissolution action, the provisions of section 600B.41A
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24 results and to report to the court.

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32 cost of foster care provided by the department.

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34 paternity by affidavit is only applicable when paternity has
35 not previously been legally established.

1 Sections 3 and 4 of the bill delete Code language which
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4 immediate payment of the support or medical support debt or
5 both and amends a previous paragraph to provide for only
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16 overcome paternity shall be pursuant to section 600B.41A, and
17 provides that if paternity is overcome under this section, the
18 previously established father is relieved of support
19 obligations unless it is subsequently determined that
20 paternity may have been incorrectly overcome.

21 Section 9 deletes language regarding blood or genetic
22 testing so that in an action for establishment of paternity in
23 which the court requires testing of inherited characteristics,
24 a determination of blood types is no longer required.

25 BACKGROUND STATEMENT

26 SUBMITTED BY THE AGENCY

27 This bill proposes amendments to the laws regarding child
28 support recovery.

29 Section 1 of the bill provides for the establishment of
30 paternity and a support order by administrative process for
31 children placed in foster care. This authority already exists
32 for all other children served by the child support recovery
33 unit.

34 Section 2 of the bill establishes that the paternity by
35 affidavit process is used to establish paternity only when no

1 previous court order or affidavit establishing paternity
2 exists.

3 Section 3 and 4 of the bill strike Code language which
4 requires that the notice of support debt in an administrative
5 establishment of support action include a demand for immediate
6 payment of support or medical support and substitutes language
7 which merely requires that the notice include a statement that
8 a person has a duty to provide medical support.

9 Sections 5 through 7 of the bill provide for earlier and
10 more efficient implementation of income withholding orders
11 without depriving child support payors of due process.

12 Section 8 corrects a conflict between sections of the
13 statute regarding actions to overcome paternity established by
14 operation of law through marriage.

15 Section 9 of the bill provides for establishment of
16 paternity at the earliest possible age of a child by allowing
17 other genetic tests in lieu of blood tests. Buccal swabs are
18 used to obtain tissue samples from infants which can be used
19 for DNA testing. Current statute requires test results to
20 include blood type, which cannot be determined from a nonblood
21 tissue sample.

22 This bill neither increases nor decreases the operational
23 costs of the child support recovery unit. Sections 5, 6, 7,
24 and 9 are expected to increase collections for the state and
25 families by a small, but indeterminable, amount.

26 Sections 5, 6, 7, and 9 will streamline program operations
27 to allow more casework to be accomplished with the same or
28 minimally increased number of staff and to allow case actions
29 to be completed earlier in the life of the case. These
30 sections will required some changes in the child support
31 computer software in areas already slated for additional
32 development. No increased data processing costs are
33 anticipated.

34 Sections 2 and 8 may prevent lawsuits and other disputes
35 from arising in the future.

SENATE FILE 149

AN ACT
RELATING TO CHILD SUPPORT RECOVERY.

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

Section 1. Section 234.39, subsection 1, Code 1995, is amended to read as follows:

1. For an individual to whom section 234.35, subsection 1, is applicable, a dispositional order of the juvenile court requiring the provision of foster care, or an administrative order entered pursuant to chapter 252C, or any order establishing paternity and support for a child in foster care, shall establish, after notice and a reasonable opportunity to be heard is provided to a parent or guardian, the amount of the parent's or guardian's support obligation for the cost of foster care provided by the department. ~~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 shall be established 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 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. 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 record the disbursements. If payments are not made as ordered, the child support recovery unit may certify a default to the court and the court may, on its own motion, proceed under section 598.22 or 598.23 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.

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

~~Establishment of~~ When paternity has not been legally established, paternity may be established by affidavit under this section ~~may be used to establish paternity of~~ for the following children:

Sec. 3. Section 252C.3, subsection 1, paragraph a, Code 1995, is amended to read as follows:

a. A 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, and that the responsible person is required to provide medical support in accordance with chapter 252E.

Sec. 4. Section 252C.3, subsection 1, paragraph c, Code 1995, is amended by striking the paragraph.

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The child support recovery unit or the district court shall provide notice of by sending a copy of the order for income withholding to the obligor's employer, trustee, or other payor of income---~~Notice shall be sent~~ by regular mail, with proof of service completed according to rule of civil procedure 82 ~~and, in~~. The order may be sent to the employer, trustee, or other payor of income on the same date that the order is sent to the clerk of court for filing. In addition to the amount to be withheld for payment of support, the order shall include all of the following information regarding the duties of the payor in implementing the withholding order:

Sec. 6. Section 252D.17, subsection 4, Code 1995, is amended to read as follows:

4. Income ~~The income withholding order~~ is binding on an existing or future employer, trustee, or other payor ten days after receipt of the notice copy of the order, and is binding whether or not the copy of the order received is file-stamped.

Sec. 7. Section 252D.23, Code 1995, is amended to read as follows:

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, for~~ For the purposes of demonstrating compliance by the employer, trustee, or other payor, the copy of the withholding order received, whether or not the copy is file-stamped, 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. However, any information contained in the income withholding order related to the amount of the accruing or accrued support obligation which

does not reflect the correct amount of support due does not modify the underlying support judgment.

Sec. 8. Section 598.21, subsection 4A, paragraph c, Code 1995, is amended to read as follows:

c. Notwithstanding paragraph "a", in a pending dissolution action under this chapter, a prior determination of paternity by operation of law through the marriage of the established father and mother of the child may be overcome under this chapter if the following conditions are met:

(1) The established father and mother of the child submit file a written statement with the court that both parties agree that the established father is not the biological father of the child and the

(2) The court finds that it is in the best interest of the child to overcome the established paternity. In determining the best interest of the child, the court shall consider the criteria provided in section 600B.41A, subsection 3, paragraph "g".

If the court overcomes a prior determination of paternity, the previously established father shall be relieved of support obligations as specified in section 600B.41A, subsection 4. In any action to overcome paternity other than through a pending dissolution action, the provisions of section 600B.41A apply. Overcoming paternity under this paragraph does not bar subsequent actions to establish paternity if it is subsequently determined that the written statement attesting that the established father is not the biological father of the child may have been submitted erroneously, and that the person previously determined not to be the child's father during the dissolution action may actually be the child's biological father.

Sec. 9. Section 600B.41, subsection 2, Code 1995, is amended to read as follows:

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~~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.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 149, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 24, 1995

TERRY E. BRANSTAD
Governor