

FILED FEB 14 1996

SENATE FILE 2193
BY McLAREN

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

A BILL FOR

1 An Act relating to child support, by limiting the use of income
2 withholding, by requiring correction of errors in support
3 payment records within sixty days, by requiring a federal
4 waiver request, and by providing effective dates.

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

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S.F. 2193

1 Section 1. Section 252D.1, subsections 2 and 3, Code 1995,
2 are amended to read as follows:

3 2. If support payments ordered under chapter 232, 234,
4 252A, 252C, 252D, 252E, 252F, 598, 600B, or any other
5 applicable chapter, or under a comparable statute of a foreign
6 jurisdiction, as certified to the child support recovery unit
7 established in section 252B.2, are not paid to the clerk of
8 the district court or the collection services center pursuant
9 to section 598.22 and become delinquent in an amount equal to
10 the payment for one-month at least sixty days, upon
11 application of a person entitled to receive the support
12 payments, the child support recovery unit or the district
13 court may enter an ex parte order notifying the person whose
14 income is to be assigned, of the delinquent amount, of the
15 amount of income, wages, compensation, or benefits to be
16 withheld, and of the procedure to file a motion to quash the
17 order of assignment, and shall order an assignment of income
18 requiring the withholding of specified sums to be deducted
19 from the delinquent person's periodic earnings, trust income,
20 compensation, benefits, or other income sufficient to pay the
21 support obligation and, except as provided in section 598.22,
22 requiring the payment of such sums to the clerk of the
23 district court or the collection services center.
24 Notification of income withholding shall be provided to the
25 payor of earnings, trust income, or other income pursuant to
26 section 252D.17.

27 3. A person entitled by court order to receive support
28 payments or a person responsible for enforcing such a court
29 order may petition the clerk of the district court for an
30 assignment of income. If the petition is verified and
31 establishes that support payments are delinquent in an amount
32 equal to the payment for one-month at least sixty days and if
33 the clerk of the district court determines, after providing an
34 opportunity for a hearing, that notice of the mandatory
35 assignment of income as provided in section 252D.3 has been

1 given, the clerk of the district court shall order an
2 assignment of income under subsection 2.

3 Sec. 2. Section 252D.2, subsections 1 and 2, Code 1995,
4 are amended to read as follows:

5 1. A petitioner under section 252D.1, subsection 3, may
6 move to quash the order of assignment at any time by asserting
7 that the delinquency did not occur or has been paid. A person
8 whose income has been assigned under section 252D.1 may move
9 to quash the order of assignment by filing the motion to quash
10 and notice of the motion to quash with the court within ten
11 days after the entering of the court order of assignment under
12 section 252D.1, subsection 2, or at any time upon a showing of
13 a mistake of fact relating to the delinquency. The clerk of
14 the district court shall schedule a hearing on the motion to
15 quash for a time not later than seven days after the filing of
16 the motion to quash and the notice of the motion to quash.
17 The clerk shall mail to the parties and to the payor copies of
18 the motion to quash, the notice of the motion to quash, and
19 the order scheduling the hearing.

20 2. The payor shall not withhold and transmit the amount
21 specified in the order of assignment to the clerk of the
22 district court ~~until the notice that~~ unless the motion to
23 quash ~~has been granted~~ is received denied. Following the
24 hearing, the clerk of the district court shall mail a notice
25 to the payor that the motion to quash has been granted or
26 denied.

27 Sec. 3. Section 252D.8, subsection 1, unnumbered paragraph
28 1, Code 1995, is amended to read as follows:

29 In a support order issued or modified on or after November
30 1, 1990, for which services are being provided by the child
31 support recovery unit, and in any support orders issued or
32 modified after January 1, 1994, for which services are not
33 provided by the child support recovery unit, the income of a
34 support obligor is subject to withholding, on the effective
35 date of the order, ~~regardless of whether~~ if support payments

1 by the obligor are in arrears for a period of at least sixty
2 days. If services are being provided pursuant to chapter
3 252B, the child support recovery unit may enter an ex parte
4 order for an immediate withholding of income. The district
5 court may enter an ex parte order for immediate income
6 withholding for cases in which the child support recovery unit
7 is not providing services. The income of the obligor is
8 subject to immediate withholding unless one of the following
9 occurs:

10 Sec. 4. Section 252D.8, subsection 2, unnumbered paragraph
11 1, Code 1995, is amended to read as follows:

12 For an order not requiring immediate withholding, income of
13 an obligor is subject to immediate withholding, ~~without-regard~~
14 ~~to-whether~~ if there is an arrearage for a period of at least
15 sixty days, and on the earliest of the following:

16 Sec. 5. Section 252D.9, Code 1995, is amended to read as
17 follows:

18 252D.9 SUMS SUBJECT TO IMMEDIATE WITHHOLDING.

19 Specified sums shall be deducted from the obligor's
20 earnings, trust income, or other income sufficient to pay the
21 ~~support-obligation-and any judgment-established-or~~ delinquency
22 accrued under the support order if there is a delinquency for
23 a period of at least sixty days. The amount withheld pursuant
24 to an assignment of income shall not exceed the amount
25 specified in 15 U.S.C. § 1673(b).

26 Sec. 6. Section 252D.11, subsections 2 and 3, Code 1995,
27 are amended to read as follows:

28 2. The clerk of the district court shall schedule a
29 hearing on the motion to quash for a time not later than seven
30 days after the filing of the motion to quash and the notice of
31 the motion to quash. The clerk shall mail to the parties and
32 to the payor copies of the motion to quash, the notice of the
33 motion to quash, and the order scheduling the hearing.

34 3. The payor shall not withhold and transmit the amount
35 specified in the order of assignment to the clerk of the

1 district court or the collection services center, as
2 appropriate, ~~until-the-notice-that~~ unless a motion to quash
3 ~~has-been-granted~~ is received denied. Following the hearing,
4 the clerk of the district court shall mail a notice to the
5 payor that the motion to quash has been granted or denied.

6 Sec. 7. Section 252D.18, subsection 3, Code 1995, is
7 amended by striking the subsection.

8 Sec. 8. Section 252D.18A, subsection 3, Code 1995, is
9 amended to read as follows:

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

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

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

33 Sec. 9. Section 252D.18C, Code 1995, is amended to read as
34 follows:

35 252D.18C WITHHOLDING FROM LUMP SUM PAYMENTS.

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

9 Sec. 10. NEW SECTION. 252D.18D CORRECTION OF ERRORS IN
10 SUPPORT PAYMENT RECORD.

11 If the child support recovery unit or the district court
12 determines that the support payment record is in error, the
13 child support recovery unit or the district court shall
14 correct the error within sixty days following the
15 determination.

16 Sec. 11. FEDERAL WAIVERS. The department of human
17 services shall submit a waiver request or requests to the
18 United States department of health and human services as
19 necessary for federal authorization to implement the policy
20 changes in the collection of child support obligations
21 provided under this Act.

22 Sec. 12. EFFECTIVE DATES. Sections 1, 3 through 5, and 7
23 through 9 of this Act are effective July 1, 1996, or upon
24 receipt of a waiver from the United States department of
25 health and human services, if necessary, whichever is later.
26 The director of the department of human services shall notify
27 the secretary of state and the Code editor if a waiver is or
28 is not necessary in order to implement sections 1 through 10
29 of this Act.

30 Section 11 of this Act, being deemed of immediate
31 importance, takes effect upon enactment.

32 EXPLANATION

33 This bill relates to child support recovery. The bill
34 provides for withholding of an obligor's income to collect
35 support only if support payments are in arrears for a period

1 of at least 60 days. Currently, the income of an obligor is
2 subject to immediate withholding whether or not there is an
3 arrearage. The department of human services is directed to
4 seek any federal waivers which might be necessary in
5 implementing the policy of collection through income
6 withholding only in cases in which delinquent support is owed.
7 These provisions are effective July 1, 1996, or upon receipt
8 of a waiver from the United States department of health and
9 human services, if the waiver is necessary.

10 The bill also provides that income withholding is
11 prohibited once a motion to quash is filed until the motion is
12 denied and requires that any errors in the support payment
13 record be corrected within 60 days of the determination of the
14 error.

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