

House Study Bill 105

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

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

A BILL FOR

1 An Act relating to child support recovery and nullifying related
2 administrative rules.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 1057DP 81
5 pf/pj/5

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1 1 Section 1. NEW SECTION. 252B.25 CONTEMPT == COMBINING
1 2 ACTIONS.
1 3 Notwithstanding any provision of law to the contrary, if an
1 4 obligor has been ordered to provide support in more than one
1 5 order, the unit may bring a single action for contempt to
1 6 enforce the multiple orders. The unit shall file the action
1 7 in the district court of a county where at least one of the
1 8 support orders was entered or registered. For the purposes of
1 9 this section, the district court where the unit files the
1 10 action shall have jurisdiction and authority over all other
1 11 support orders for the obligor entered or registered by a
1 12 court of this state and affected under this section.

1 13 Sec. 2. NEW SECTION. 252B.26 SERVICE OF PROCESS.
1 14 Notwithstanding any provision of law to the contrary, the
1 15 unit may serve a petition, notice, or rule to show cause under
1 16 chapter 252A, 252C, 252F, 252H, 252K, 598, or 665 as specified
1 17 in each chapter, or by certified mail. Return acknowledgement
1 18 is required to prove service by certified mail, rules of civil
1 19 procedure 1.303(5) and 1.308(5) shall not apply, and the
1 20 return acknowledgment shall be filed with the clerk of court.

1 21 Sec. 3. Section 252D.3, Code 2005, is amended to read as
1 22 follows:

1 23 252D.3 NOTICE OF INCOME WITHHOLDING.

1 24 All orders for support entered on or after July 1, 1984,
1 25 shall notify the person ordered to pay support of the
1 26 mandatory withholding of income required under section 252D.1.
1 27 ~~However, for orders for support entered before July 1, 1984,~~
~~1 28 the clerk of the district court, the child support recovery~~
~~1 29 unit, or the person entitled by the order to receive the~~
~~1 30 support payments, shall notify each person ordered to pay~~
~~1 31 income under such orders of the mandatory withholding of~~
~~1 32 income required under section 252D.1. The notice shall be~~
~~1 33 sent by certified mail to the person's last known address or~~
~~1 34 the person shall be personally served with the notice in the~~
~~1 35 manner provided for service of an original notice at least~~
~~2 1 fifteen days prior to the ordering of income withholding under~~
~~2 2 section 252D.1. A person ordered to pay support may waive the~~
~~2 3 right to receive the notice at any time. However, this~~
~~2 4 subchapter is sufficient notice of implementation of mandatory~~
~~2 5 withholding of income under section 252D.1 without any further~~
~~2 6 notice.~~

2 7 Sec. 4. Section 252D.10, Code 2005, is amended to read as
2 8 follows:

2 9 252D.10 NOTICE OF IMMEDIATE INCOME WITHHOLDING.

~~2 10 The notice requirements of section 252D.3 do not apply to~~
~~2 11 this subchapter.~~ An order for support entered after November
2 12 1, 1990, shall contain the notice of immediate income
2 13 withholding. However, this subchapter is sufficient notice
2 14 for implementation of immediate income withholding without any
2 15 further notice.

2 16 Sec. 5. Section 252D.16, subsection 1, paragraph b, Code
2 17 2005, is amended to read as follows:

2 18 b. A sole payment or lump sum as provided in section
2 19 252D.18C, including but not limited to payment from an estate

2 20 including inheritance, or payment for personal injury or
2 21 property damage.

2 22 Sec. 6. Section 252D.24, subsection 2, Code 2005, is
2 23 amended by striking the subsection.

2 24 Sec. 7. Section 252I.3, Code 2005, is amended to read as
2 25 follows:

2 26 252I.3 INITIAL NOTICE TO OBLIGOR.

~~2 27 The unit may proceed under this chapter only if notice has
2 28 been provided to the obligor in one of the following manners:~~

~~2 29 1. The obligor is provided notice of the provisions of
2 30 this chapter in the court order establishing the support
2 31 obligation. The unit or district court may include language
2 32 in any new or modified support order issued on or after July
2 33 1, 1994, notifying the obligor that the obligor is subject to
2 34 the provisions of this chapter. However, this chapter is
2 35 sufficient notice for implementation of administrative levy
3 1 provisions without further notice of the provisions of this
3 2 chapter.~~

~~3 3 2. The unit may send a notice by regular mail to the last
3 4 known address of the obligor, notifying the obligor that the
3 5 obligor is subject to the provisions of this chapter, with
3 6 proof of service completed according to rule of civil
3 7 procedure 1.442.~~

3 8 Sec. 8. Section 252I.5, subsection 1, Code 2005, is
3 9 amended to read as follows:

~~3 10 1. If an obligor is subject to this chapter under section
3 11 252I.2, the unit may initiate an administrative action to levy
3 12 against the accounts of the obligor. If notice has previously
3 13 been provided pursuant to section 252I.3, further notice is
3 14 not required.~~

3 15 Sec. 9. Section 252J.3, unnumbered paragraph 1, Code 2005,
3 16 is amended to read as follows:

~~3 17 The unit shall proceed in accordance with this chapter only
3 18 if the unit sends a notice is served on to the individual in
3 19 accordance with rule of civil procedure 1.305 or notice is
3 20 sent by certified mail addressed to the individual's last
3 21 known address and served upon any person who may accept
3 22 service under rule of civil procedure 1.305. Return
3 23 acknowledgment is required to prove service by certified by
3 24 regular mail to the last known address of the individual. The
3 25 notice shall include all of the following:~~

3 26 Sec. 10. Section 252J.3, subsections 4 and 5, Code 2005,
3 27 are amended to read as follows:

~~3 28 4. A statement that if, within twenty days of service
3 29 mailing of the notice on to the individual, the individual
3 30 fails to contact the unit to schedule a conference, the unit
3 31 shall issue a certificate of noncompliance, bearing the
3 32 individual's name, social security number and unit case
3 33 number, to any appropriate licensing authority, certifying
3 34 that the obligor is not in compliance with a support order or
3 35 an individual has not complied with a subpoena or warrant.~~

~~4 1 5. A statement that in order to stay the issuance of a
4 2 certificate of noncompliance the request for a conference
4 3 shall be in writing and shall be received by the unit within
4 4 twenty days of service mailing of the notice on to the
4 5 individual.~~

4 6 Sec. 11. Section 252J.4, subsections 1, 2, and 6, Code
4 7 2005, are amended to read as follows:

~~4 8 1. The individual may schedule a conference with the unit
4 9 following service mailing of the notice pursuant to section
4 10 252J.3, or at any time after service of notice of suspension,
4 11 revocation, denial of issuance, or nonrenewal of a license
4 12 from a licensing authority, to challenge the unit's actions
4 13 under this chapter.~~

~~4 14 2. The request for a conference shall be made to the unit,
4 15 in writing, and, if requested after service mailing of a the
4 16 notice pursuant to section 252J.3, shall be received by the
4 17 unit within twenty days following service mailing of the
4 18 notice.~~

~~4 19 6. If the individual does not timely request a conference
4 20 or does not comply with a subpoena or warrant or if the
4 21 obligor does not pay the total amount of delinquent support
4 22 owed within twenty days of service mailing of the notice
4 23 pursuant to section 252J.3, the unit shall issue a certificate
4 24 of noncompliance.~~

4 25 Sec. 12. Section 252J.6, subsection 1, unnumbered
4 26 paragraph 1, Code 2005, is amended to read as follows:

~~4 27 If an obligor is not in compliance with a support order or
4 28 the individual is not in compliance with a subpoena or warrant
4 29 pursuant to section 252J.2, the unit notifies mails a notice
4 30 to the individual pursuant to section 252J.3, and the~~

4 31 individual requests a conference pursuant to section 252J.4,
4 32 the unit shall issue a written decision if any of the
4 33 following conditions exists:
4 34 Sec. 13. Section 600.16A, subsection 5, Code 2005, is
4 35 amended to read as follows:
5 1 5. Notwithstanding subsection 2, a termination of parental
5 2 rights order issued pursuant to this chapter, section 600A.9
5 3 may, or any other chapter shall be disclosed to the child
5 4 support recovery unit, upon request, without court order.
5 5 Sec. 14. NULLIFICATION OF RULES. The following rules are
5 6 nullified:
5 7 1. 441 IAC 98.22.
5 8 2. 441 IAC 98.23.
5 9 3. 441 IAC 98.33.
5 10 4. 441 IAC 98.92.

5 11 EXPLANATION

5 12 This bill relates to child support provisions.
5 13 The bill adds new Code section 252B.25, which provides that
5 14 notwithstanding any provision of law to the contrary, if an
5 15 obligor has been ordered to provide support in more than one
5 16 order and has not complied with more than one order, the child
5 17 support recovery unit may bring a single action for contempt
5 18 to enforce these multiple orders. The action for contempt is
5 19 to be filed in the district court in a county where at least
5 20 one of the support orders was entered or registered. The bill
5 21 provides that the district court where the unit files the
5 22 action has jurisdiction and authority over all other support
5 23 orders for the obligor entered or registered by a court of the
5 24 state and affected under the new provision.

5 25 The bill also adds new Code section 252B.26, authorizing
5 26 the unit, notwithstanding any provision of law to the
5 27 contrary, to serve a petition, notice, or rule to show cause
5 28 as provided in each chapter specified (Code chapter 252A,
5 29 252C, 252F, 252H, 252K, 598, or 665), or by certified mail.
5 30 The bill requires return acknowledgement to prove service by
5 31 certified mail. The bill provides that rule of civil
5 32 procedure 1.303(5) relating to the time limit for a party
5 33 served by mail to file a motion or answer and rule of civil
5 34 procedure 1.308(5) requiring proof of mailing to be by
5 35 affidavit and a duplicate copy of the papers referred to in
6 1 the affidavit to be filed with the court do not apply. The
6 2 bill also provides that the return acknowledgment to prove
6 3 service by certified mail is to be filed with the clerk of
6 4 court.

6 5 The provisions in the bill amending Code sections 252D.3
6 6 and 252D.24, subsection 2, provide for the elimination of one
6 7 of the notices regarding income withholding that are currently
6 8 sent to the obligor. The notice eliminated is the notice
6 9 which is sent by certified mail to the obligor after a child
6 10 support order is entered and before an income withholding
6 11 order is entered. The federal law requiring prior notice of
6 12 income withholding was repealed. The conforming provisions
6 13 nullifying 441 IAC 98.22, 441 IAC 98.23, and 441 IAC 98.33
6 14 eliminate this notice requirement in the rules for mandatory
6 15 and immediate income withholding and also eliminate the
6 16 requirement that a file-stamped copy of the order be
6 17 maintained in the clerk of court's and the unit's files. The
6 18 rules provision regarding the filing of the income withholding
6 19 order with the clerk of court which is eliminated by such
6 20 nullification is maintained in Code section 252D.23.

6 21 The provision in the bill amending Code section 252D.16,
6 22 subsection 1, specifies that, for the purpose of attachment to
6 23 pay support, "income" and specifically lump sum payments,
6 24 include payment from an estate including inheritance, or
6 25 payment for personal injury or property damage.

6 26 The provisions in the bill amending Code sections 252I.3
6 27 and 252I.5, and the provision nullifying 441 IAC 98.92,
6 28 eliminate one of the notices to obligors regarding
6 29 administrative levy of an account at a financial institution.

6 30 The provisions amending Code sections 252J.3, 252J.4, and
6 31 252J.6 require the unit to send a notice of potential license
6 32 sanction to an obligor by regular mail instead of serving the
6 33 obligor by certified mail.

6 34 The bill amends Code section 600.16A to require that a
6 35 termination of parental rights order issued pursuant to any
7 1 Code chapter be disclosed to the child support recovery unit,
7 2 upon request, without a court order. Current law specifies
7 3 that an order issued under Code section 600A.9 or Code chapter
7 4 232 as provided pursuant to Code section 232.147, by the
7 5 juvenile court, may be disclosed to the unit, but does not
7 6 specify that an order issued under Code chapter 600 or any

7 7 other chapter may also be disclosed to the unit.
7 8 LSB 1057DP 81
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