

House File 429 - Introduced

HOUSE FILE 429

BY BERRY and ROGERS

A BILL FOR

1 An Act providing for the diversion of a portion of a
2 noncustodial parent's child support obligation to a savings
3 account for a child in a child support diversion trust.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 12I.1 **Definitions.**

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

4 1. "*Beneficiary*" means the individual designated by a
5 participation agreement to benefit from a child support
6 diversion savings account.

7 2. "*Higher education costs*" means the certified costs of
8 tuition, fees, books, supplies, and equipment required for
9 enrollment or attendance at an institution of higher education.
10 Reasonable room and board expenses, based on the minimum amount
11 applicable for the institution of higher education during the
12 period of enrollment, shall be included as a higher education
13 cost for those students enrolled on at least a half-time basis.
14 In the case of a special needs beneficiary, expenses for
15 special needs services incurred in connection with enrollment
16 or attendance at an institution of higher education shall be
17 included as a higher education cost.

18 3. "*Institution of higher education*" means an institution
19 described in section 481 of the federal Higher Education Act of
20 1965, 20 U.S.C. §1088, which is eligible to participate in the
21 United States department of education's student aid programs.

22 4. "*Participant*" means an individual who has been ordered by
23 the court to divert a portion of the individual's child support
24 obligation to a savings account for a child pursuant to section
25 598.21H.

26 5. "*Participation agreement*" means an agreement between a
27 participant and the trust entered into under this chapter.

28 6. "*Trust*" means the child support diversion trust
29 established under section 12I.2.

30 7. "*Tuition and fees*" means the quarter or semester charges
31 imposed to attend an institution of higher education and
32 required as a condition of enrollment.

33 Sec. 2. NEW SECTION. 12I.2 **Creation of child support**
34 **diversion trust.**

35 The treasurer of state shall establish a child support

1 diversion trust, shall act as the trustee of the trust, and
2 shall have all powers necessary to carry out and effectuate the
3 purposes, objectives, and provisions of the trust including the
4 power to do all of the following:

5 1. Make and enter into contracts necessary for the
6 administration of the trust.

7 2. Carry out the duties and obligations of the trust
8 pursuant to this chapter.

9 3. Procure insurance against any loss in connection with the
10 property, assets, or activities of the trust.

11 4. Enter into participation agreements with participants.

12 5. Make distributions to a beneficiary of the trust pursuant
13 to the provisions, limitations, and restrictions set forth for
14 access to and use of the moneys by the beneficiary in an order
15 of the court pursuant to section 598.21H.

16 6. Invest moneys from the trust in any investments which are
17 determined by the treasurer of state to be appropriate.

18 7. Engage investment advisors, if necessary, to assist in
19 the investment of trust assets.

20 8. Establish, impose, and collect administrative fees and
21 charges in connection with transactions of the trust, and
22 provide for reasonable service charges, including penalties for
23 cancellations and late payments with respect to participation
24 agreements.

25 9. Administer the funds of the trust.

26 10. Adopt rules pursuant to chapter 17A for the
27 administration of the trust.

28 Sec. 3. NEW SECTION. 12I.3 Participation agreements for
29 trust.

30 The trust may enter into participation agreements with
31 participants on behalf of beneficiaries pursuant to the
32 following terms and agreements:

33 1. a. Each participation agreement shall require a
34 participant to agree to contribute a specific amount on behalf
35 of a specific beneficiary in accordance with the order of the

1 court issued pursuant to section 598.21H.

2 *b.* A participation agreement may be amended to provide for
3 changed circumstances as provided in an order modifying an
4 order issued pursuant to section 598.21H.

5 2. Each participation agreement shall provide that the
6 participation agreement may be canceled upon modification of an
7 order issued pursuant to section 598.21H directing cancellation
8 of the participation agreement and upon payment of applicable
9 fees and costs set forth and contained in the rules adopted by
10 the treasurer of state.

11 **Sec. 4. NEW SECTION. 12I.4 Deposit of moneys in trust —**
12 **investment — assets of the trust.**

13 1. All moneys paid by a participant in connection with a
14 participation agreement shall be deposited as received into a
15 separate savings account within the trust.

16 2. A participant or beneficiary shall not provide
17 investment direction regarding contributions to a savings
18 account or earnings held by the trust.

19 3. All income derived from the investment of the
20 contributions made by the participant shall be considered to be
21 held in trust for the benefit of the beneficiary.

22 4. The assets of the trust shall at all times be preserved,
23 invested, and expended solely and only for the purposes of
24 the trust and shall be held in trust for the participants and
25 beneficiaries.

26 5. No property rights in the trust shall exist in favor of
27 the state.

28 6. The assets of the trust shall not be transferred or used
29 by the state for any purposes other than the purposes of the
30 trust.

31 **Sec. 5. NEW SECTION. 598.21H Child support diversion for**
32 **establishment of savings account.**

33 1. *Order for savings account.* The court may order a portion
34 of a party's child support obligation to be diverted to a
35 savings account for the child as provided in chapter 12I.

1 2. *Diverted amount payable.* The diverted amount shall be
2 payable to a savings account established pursuant to chapter
3 12I.

4 3. *Criteria for diversion to savings account.* The court
5 may order that a portion of a party's child support obligation
6 be diverted to a savings account for the child as provided in
7 chapter 12I if all of the following conditions are met:

8 a. The custodial and noncustodial parents agree to the
9 diversion of the portion of the child support obligation.

10 b. The net monthly household income of the custodial
11 parent equals at least one hundred ten percent of the monthly
12 allowable living expenses for the area in which the custodial
13 parent resides.

14 c. The portion of the child support obligation to be
15 diverted does not exceed three percent of the child support
16 obligation amount.

17 4. *Criteria for access to and use of the funds in the savings*
18 *account.*

19 a. Access to and use of the funds in the savings account
20 shall be restricted as specifically provided in the order to
21 meet the needs of the child.

22 b. Unless an exception applies as specified in paragraph
23 "c", the child shall only have the following access to the funds
24 in the savings account for the following uses:

25 (1) Access at the age the child has attained upon enrollment
26 in an institution of higher education for payment of the
27 child's higher education costs.

28 (2) Access when the child attains twenty-five years of age
29 for any purpose.

30 c. The court may provide in the order for alternative access
31 to and use of the funds in the savings account by the child or
32 may modify the order and allow alternative access to and use
33 of such funds other than as provided in paragraph "b", once the
34 child reaches eighteen years of age or is emancipated, if the
35 court determines the child has excessive medical expenses or

1 other circumstances deemed by the court to be appropriate for
2 access to and use of the funds in the savings account.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with
5 the explanation's substance by the members of the general assembly.

6 This bill provides for the establishment of a child
7 support diversion trust by the treasurer of state. The bill
8 authorizes the treasurer to establish the trust, provides for
9 the powers of the treasurer relating to the trust, specifies
10 the requirements for participation agreements under the trust,
11 and provides for deposit of contributions, which are amounts
12 of child support obligations diverted from payment as child
13 support to instead be placed in a savings account for future
14 access to and use by a child.

15 The bill provides for the issuance of court orders to divert
16 a portion of a child support obligation to a savings account
17 for the child. The bill provides that the amount diverted is
18 payable to the savings account established by the treasurer.
19 The criteria for diversion of a portion of the child support
20 obligation are that the custodial and noncustodial parents
21 agree to the diversion; the net monthly household income
22 of the custodial parent equals at least 110 percent of the
23 monthly allowable living expenses for the area in which the
24 custodial parent resides; and that the portion of the child
25 support obligation to be diverted does not exceed 3 percent
26 of the child support obligation amount. Criteria for access
27 to and use of the funds by the child are to be restricted as
28 specifically provided in the order to meet the needs of the
29 child. Unless an exception applies, the child is to only
30 have access to the funds when the child attains the age for
31 enrollment in an institution of higher education to be used
32 for higher education costs or when the child attains the
33 age of 25 and may then use the funds for any purpose. The
34 bill provides, however, that the court may provide in the
35 order for alternative access to and use of the funds in the

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1 savings account by the child or may modify the order and allow
2 alternative access to and use of such funds other than as
3 provided in the bill once the child reaches 18 years of age or
4 is emancipated, if the court determines the child has excessive
5 medical expenses or other circumstances deemed by the court
6 to be appropriate for access to and use of the funds in the
7 savings account.