

CHAPTER 1278
CHILD SUPPORT DEBT PROCEDURES

H.F. 2467

AN ACT relating to administrative procedures for the establishment, determination, and collection of certain child support debts.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 252C.1 DEFINITIONS. As used in this chapter, unless the context otherwise requires:

1. "Caretaker" means a parent, relative, guardian, or another person who is responsible for paying foster care costs pursuant to chapter 234 or whose needs are included in an assistance payment made pursuant to chapter 239.
2. "Court order" means a judgment or order of a court of this state or another state requiring the payment of a set or determinable amount of monetary support.
3. "Department" means the department of human services.
4. "Dependent child" means a person who meets the eligibility criteria established in chapter 234 or 239 and whose support is required by chapter 234, 239, 252A, 598, or 675.
5. "Director" means the director of the child support recovery unit of the department of human services, or the director's designee.
6. "Public assistance" means foster care costs paid by the department pursuant to chapter 234 or assistance provided pursuant to chapter 239.
7. "Responsible person" means a parent, relative, guardian, or another person legally liable for the support of a child or a child's caretaker.

Sec. 2. NEW SECTION. 252C.2 ASSIGNMENT—CREATION OF SUPPORT DEBT—SUBROGATION.

1. By accepting public assistance for or on behalf of a dependent child or a dependent child's caretaker, the recipient is deemed to have made an assignment to the department of any and all right, title, and interest in any support obligation and arrearages owed to or for the child or caretaker up to the amount of public assistance paid for or on behalf of the child or caretaker.
2. The payment of public assistance to or for the benefit of a dependent child or a dependent child's caretaker creates a support debt due and owing to the department by the responsible person in an amount equal to the public assistance payment, except that the support debt is limited to the amount of a support obligation established by court order or by the director. If a court order has not been entered, the director may establish a support debt in an amount determined to be consistent with the debtor's ability to pay and the needs of the dependent child, both as to amounts accrued and accruing, and with the schedule of minimum support guidelines in section 252C.10. However, a support debt is not created in favor of the department against a responsible person for the period during which the responsible person is a recipient on the person's own behalf of public assistance for the benefit of the dependent child or the dependent child's caretaker.

3. The provision of child support collection or paternity determination services under chapter 252B to an individual, even though the individual is ineligible for public assistance, creates a support debt due and owing to the individual or the individual's child or ward by the responsible person in the amount of a support obligation established by court order or by the director. If a court order has not been entered, the director may establish a support debt in favor of the individual or the individual's child or ward and against the responsible person, in an amount determined to be consistent with the responsible person's ability to pay and the needs of the dependent child, both as to amounts accrued and accruing, and with the schedule of minimum support guidelines in section 252C.10.

4. The department is subrogated to the rights of a dependent child or a dependent child's caretaker to bring a court action or to execute an administrative remedy for the collection of support. The director may petition an appropriate court for modification of a court order on the same grounds as a party to the court order can petition the court for modification.

Sec. 3. NEW SECTION. 252C.3 NOTICE OF SUPPORT DEBT—ADMINISTRATIVE HEARING, DETERMINATION, AND ORDER.

1. In the absence of a court order, the director may issue a notice establishing and demanding payment of an accrued or accruing support debt due and owed to the department or an individual under section 252C.2. The notice shall be served upon the responsible person in accordance with the rules of civil procedure. The notice shall include all of the following:

- a. The amount of any monthly public assistance creating a support debt.
- b. A computation of the support debt.
- c. The name of a public assistance recipient and the name of the dependent child or caretaker for whom the public assistance is paid.
- d. A demand for immediate payment of the support debt.
- e. (1) A statement that if the responsible person desires to discuss the amount of support that the responsible person should be required to pay, the responsible person may, within ten days after being served, contact the office of the child support recovery unit which sent the notice and request a negotiation conference.
(2) A statement that if a negotiation conference is requested, then the responsible person shall have ten days from the date set for the negotiation conference or twenty days from the date of service of the original notice, whichever is later, to send a request for a hearing to the office of the child support recovery unit which issued the notice.
(3) A statement that after the holding of the negotiation conference, the director may issue a new notice and finding of financial responsibility to be sent to the responsible person by regular mail addressed to the responsible person's last known address, or if applicable, to the last known address of the responsible person's attorney.
(4) A statement that if the director issues a new notice and finding of financial responsibility, then the responsible person shall have ten days from the date of issuance of the new notice or twenty days from the date of service of the original notice, whichever is later, to send a request for a hearing to the office of the child support recovery unit which issued the notice.
- f. A statement that if the responsible person objects to all or any part of the notice or finding of financial responsibility and no negotiation conference is requested, then within twenty days of the date of service, the responsible person shall send to the office of the child support recovery unit which issued the notice a written response setting forth any objections and requesting a hearing.
- g. A statement that if a timely written request for a hearing is received by the office of the child support recovery unit which issued the notice, the responsible person shall have the

right to a hearing to be held in district court; and that if no timely written response is received, the director may enter an order in accordance with the notice and finding of financial responsibility.

h. A statement that, as soon as the order is entered, the property of the responsible person is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and execution.

i. A statement that the responsible person shall notify the director of any change of address or employment.

j. A statement that if the responsible person has any questions, the responsible person should telephone or visit an office of the child support recovery unit or consult an attorney.

k. Such other information as the director finds appropriate.

2. The time limitations for requesting a hearing in subsection 1 may be extended by the director.

3. If a timely written response setting forth objections and requesting a hearing is received by the appropriate office of the child support recovery unit, a hearing shall be held in district court.

4. If timely written response and request for hearing is not received by the appropriate office of the child support recovery unit, the director may enter an order in accordance with the notice, and shall specify all of the following:

a. The amount of monthly support to be paid, with directions as to the manner of payment.

b. The amount of the support debt accrued and accruing in favor of the department.

c. The name of the custodial parent or agency having custody of the dependent child and the name and birth date of the dependent child for whom support is to be paid.

d. That the property of the responsible person is subject to collection action, including but not limited to wage withholding, garnishment, attachment of a lien, and execution.

5. The responsible person shall be sent a copy of the order by regular mail addressed to the responsible person's last known address, or if applicable, to the last known address of the responsible person's attorney. The order is final, and action by the director to enforce and collect upon the order, including arrearages, may be taken from the date of issuance of the order.

Sec. 4. NEW SECTION. 252C.4 CERTIFICATION OF ORDER TO DISTRICT COURT—HEARING—DEFAULT UPON FAILURE TO APPEAR.

1. If a timely written request for a hearing is received, the director shall certify the matter to the district court in the county in which the order has been filed, or if no such order has been filed, then to a district court in the county where the dependent child resides.

2. If the matter has not been heard previously by the district court, the certification shall include true copies of the notice and finding of financial responsibility or notice of the support debt accrued and accruing, the return of service, the written objections and request for hearing, and true copies of any administrative orders previously entered.

3. The court shall set the matter for hearing and notify the parties of the time and place of hearing.

4. The court shall consider the schedule of minimum support guidelines in section 252C.10 in establishing the monthly support payment and the amount of the support debt accrued and accruing.

5. If a party fails to appear at the hearing, upon a showing of proper notice to that party, the court may find that party in default and enter an appropriate order.

Sec. 5. NEW SECTION. 252C.5 FILING AND DOCKETING OF FINANCIAL RESPONSIBILITY ORDER—ORDER EFFECTIVE AS DISTRICT COURT DECREE. A true copy of any order entered by the director pursuant to this chapter, along with a true copy of the return of service, if applicable, may be filed in the office of the clerk of the district court in the county in which the dependent child resides. Upon filing, the clerk shall enter the order in the judgment docket, and the order shall have all the force, effect, and attributes of a docketed order or decree of the district court.

Sec. 6. NEW SECTION. 252C.6 INTEREST ON SUPPORT DEBTS. Interest accrues on support debts at the rate provided in section 535.3 for court judgments. The director may collect the accrued interest but is not required to maintain interest balance accounts. The department may waive payment of the interest if the waiver will facilitate the collection of the support debt.

Sec. 7. NEW SECTION. 252C.7 EMPLOYERS—ASSIGNMENTS OF EARNINGS. In addition to other remedies provided by law for the enforcement of a support obligation, the employer of a responsible person owing a support debt shall honor a duly executed assignment of current or future earnings presented by the director to the employer as a plan to satisfy or retire the support debt. The assignment is effective until released in writing by the director. The employer is entitled to receive from the debtor a fee of one dollar for each remittance under the assignment. Payment of moneys pursuant to the assignment of earnings is a full acquittance under a contract of employment. The director is released from liability for improper receipt of moneys under an assignment of earnings upon the return of the moneys.

Sec. 8. NEW SECTION. 252C.8 PREVENTION OF TRANSFER OF ASSETS OR COMPLIANCE WITH ORDER. If the director reasonably believes that the responsible person is not a resident of this state, is about to move from this state, or is concealing the responsible person's whereabouts, or that the responsible person has removed or is about to remove, secrete, waste, or otherwise dispose of property which could be made subject to collection procedures to satisfy the support debt, the director may petition the district court for a temporary restraining order barring the removal, secretion, waste, or disposal. However, if the responsible person furnishes a bond satisfactory to the court, the temporary restraining order shall be vacated.

Sec. 9. NEW SECTION. 252C.9 COURT ORDER PREVAILS. If an order issued pursuant to this chapter conflicts with an order of a court, to the extent of the conflict the court order prevails.

Sec. 10. NEW SECTION. 252C.10 SCHEDULE OF MINIMUM SUPPORT GUIDELINES.

1. As used in this section, "monthly net income" means gross monthly income minus payroll taxes as defined in section 85.61, subsection 10, mandatory pension contributions, health insurance or health benefit payments for dependents, and deductions not to exceed twenty-five dollars per month for a responsible person's health insurance, health benefit payments, or medical expenses.

2. In ordering a responsible person to pay reasonable and necessary child support, the director shall set the monthly amount of the child support by multiplying the responsible person's monthly net income by the percentage indicated in the following guidelines, unless the director makes express findings of fact as to the reason for deviating from the guidelines. However, the director may set the child support above the amount in the guidelines without making express findings of fact if the parties expressly agree to the amount of the child support.

| Monthly Net Income of Re- sponsible Person | Number of Dependent Children | | | | | | |
|--|--|-----|-----|-----|-----|-----|--------------|
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 or more |
| \$ 400 and below | Order based on the ability of the responsible person to provide support at these income levels, or at higher levels, if the responsible person has the ability to earn more. | | | | | | |
| \$ 401 - 500 | 14% | 17% | 20% | 22% | 24% | 26% | 28% |
| \$ 501 - 550 | 15% | 18% | 21% | 24% | 26% | 28% | 30% |
| \$ 551 - 600 | 16% | 19% | 22% | 25% | 28% | 30% | 32% |
| \$ 601 - 650 | 17% | 21% | 24% | 27% | 29% | 32% | 34% |
| \$ 651 - 700 | 18% | 22% | 25% | 28% | 31% | 34% | 36% |
| \$ 701 - 750 | 19% | 23% | 27% | 30% | 33% | 36% | 38% |
| \$ 751 - 800 | 20% | 24% | 28% | 31% | 35% | 38% | 40% |
| \$ 801 - 850 | 21% | 25% | 29% | 33% | 36% | 40% | 42% |
| \$ 851 - 900 | 22% | 27% | 31% | 34% | 38% | 41% | 44% |
| \$ 901 - 950 | 23% | 28% | 32% | 36% | 40% | 43% | 46% |
| \$ 951 - 1000 | 24% | 29% | 34% | 38% | 41% | 45% | 48% |
| \$1001 and over | 25% | 30% | 35% | 39% | 43% | 47% | 50% |

3. In applying the guidelines, the director shall consider the following criteria:

(1) All earnings, income, and resources of the responsible parent, including real and personal property.

(2) The basic living needs of the responsible person.

(3) The financial needs of the dependent child or children to be supported.

(4) The amount of public assistance for which the dependent child or children could be eligible.

4. In applying the guidelines, the director may consider previous support or maintenance orders which the responsible person is currently paying.

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