

CHAPTER 178
COLLECTION OF SUPPORT OBLIGATIONS
H.F. 495

AN ACT for the collection of support obligations relating to identifying information in petitions for dissolution of marriage and support orders, the payment and distribution of support payments to and by the clerk of the district court, the modification of support orders, and the recording of income tax refund or rebate payments by the clerk.

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

Section 1. Section 252C.7, Code 1985, is amended to read as follows:
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~~ two dollars 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. 2. Section 252D.1, Code 1985, is amended by adding the following new unnumbered paragraph after subsection 3:

NEW UNNUMBERED PARAGRAPH. As used in this chapter, unless the context otherwise requires, "support" or "support payments" means any amount which the court may require a person to pay for the benefit of a child under a temporary order or a final judgment or decree, and may include child support, maintenance, and, if contained in a child support order, spousal support, and any other term used to describe these obligations. These obligations may include support for a child who is between the ages of eighteen and twenty-two years and who is regularly attending an approved school in pursuance of a course of study leading to a high school diploma or its equivalent, or regularly attending a course of vocational technical training either as a part of a regular school program or under special arrangements adapted to the individual person's needs, or is, in good faith, a full-time student in a college, university, or area school, or has been accepted for admission to a college, university, or area school and the next regular term has not yet begun; and may include support for a child of any age who is dependent on the parties to the dissolution proceedings because of physical or mental disability.

Sec. 3. Section 252D.4, subsection 1, Code 1985, is amended to read as follows:

1. The employer, trustee, or other payor who receives an order of assignment by certified mail pursuant to section 252D.1, subsection 2 shall deliver, on the next working day, a copy of the order to the person named in the order. The payor may deduct not more than ~~one dollar~~ two dollars from each payment from the employee's wages as a reimbursement for the payor's

costs relating to the assignment. The payor's compliance with the order of assignment satisfies the payor's obligation to the person for the amount of income withheld and transmitted to the clerk of the district court.

Sec. 4. Section 598.5, subsections 1 and 3, Code 1985, are amended to read as follows:

1. State the name, birth date, address and county of residence of the petitioner and the name and address of the petitioner's attorney.

3. State the name, birth date, address and county of residence, if known, of the respondent.

Sec. 5. Section 598.11, unnumbered paragraph 2, Code 1985, is amended to read as follows:

The court may make such an order when a claim for temporary support is made by the petitioner in the petition, or upon application of either party, after service of the original notice and when no application is made in the petition; however, no such order shall be entered until at least five days' notice of hearing, and opportunity to be heard, is given the other party. Appearance by an attorney or the respondent for such hearing shall be deemed a special appearance for the purpose of such hearing only and not a general appearance. An order entered pursuant to this section shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

Sec. 6. Section 598.21, subsection 7, Code 1985, is amended to read as follows:

7. Orders made pursuant to this section need mention only those factors relevant to the particular case for which the orders are made but shall contain the names, birth dates, addresses, and counties of residence of the petitioner and respondent.

Sec. 7. Section 598.21, subsection 8, unnumbered paragraph 1, Code 1985, is amended to read as follows:

The court may subsequently modify orders made under this section when there is a substantial change in circumstances. The court contemplating a change in child support because of alleged change in circumstances shall consider each parent's earning capacity, economic circumstances and cost of living. In determining whether there is a substantial change in circumstances, the court shall consider the following:

- a. Changes in the employment, earning capacity, income or resources of a party.
- b. Receipt by a party of an inheritance, pension or other gift.
- c. Changes in the medical expenses of a party.
- d. Changes in the number or needs of dependents of a party.
- e. Changes in the physical or emotional health of a party.
- f. Changes in the residence of a party.
- g. Remarriage of a party.
- h. Possible support of a party by another person.
- i. Changes in the physical, emotional or educational needs of a child whose support is governed by the order.

j. Contempt by a party of existing orders of court.

k. Other factors the court determines to be relevant in an individual case. A modification of a support order entered under chapter 252A, chapter 675, or this chapter between parties to the order is void unless the modification is approved by the court, after proper notice and opportunity to be heard is given to all parties to the order, and entered as an order of the court. If support payments have been assigned to the department of human services pursuant to section 239.3, the department shall be considered a party to the support order. Modifications of orders pertaining to child custody shall be made pursuant to chapter 598A. If the petition for a modification of an order pertaining to child custody asks either for joint custody or that joint custody be modified to an award of sole custody, the modification, if any, shall be made pursuant to section 598.41.

Sec. 8. Section 598.22, unnumbered paragraphs 1, 2, and 3, Code 1985, are amended to read as follows:

All orders or judgments ~~providing~~ entered under chapter 252A, chapter 675, or this chapter which provide for temporary or permanent support payments shall direct the payment of such sums to the clerk of the district court for the use of the person for whom the payments have been awarded. Payments to persons other than the clerk of the district court do not satisfy the support obligations created by such orders or judgments, except as provided for trusts in section 252D.1, 598.22, or 598.23 or for tax refunds or rebates in section 602.8102, subsection 47.

Upon a finding of previous failure to pay child support, the court may order the person obligated for permanent child support to make an assignment of periodic earnings, or trust income to the clerk of court for the use of the person for whom the assignment is ordered. The assignment of earnings ordered by the court shall not exceed the amounts set forth in 15 U.S.C. s. ~~sec. 1673b(b) (Supp. 1979 1982)~~. The assignment is binding on the employer, trustee, or other payor of the funds two weeks after service upon that person of notice that the assignment has been made. The payor shall withhold from the earnings, or trust income payable to the person obligated the amount specified in the assignment and shall transmit the payments to the clerk. However, for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the payor shall transmit the payments to the alternate payee in accordance with the federal Act. The payor may deduct from each payment a sum not exceeding ~~one dollar two~~ dollars as a reimbursement for costs. An employer who dismisses an employee due to the entry of an assignment order commits a simple misdemeanor.

An order or judgment entered by the court for temporary or permanent support or for an assignment shall be filed with the ~~court~~ clerk. The orders ~~shall~~ have the same force and effect as judgments when entered in the judgment docket and lien index and ~~shall be a record~~ are records open to the public. The clerk shall disburse the payments received pursuant to the orders or judgments within ten working days of the receipt of the payments. All moneys received or disbursed under this section shall be entered in a record book kept by the clerk, which shall be open to the public. The clerk shall not enter any moneys paid in the record book if not paid directly to the clerk, except as provided for trusts in section 252D.1, 598.22, or 598.23 or for tax refunds or rebates in section 602.8102, subsection 47.

Sec. 9. Section 598.23, subsection 2, paragraph a, Code 1985, is amended to read as follows:

a. Directs the defaulting party to assign, trust income or a sufficient amount in salary or wages due, or to become due in the future, from an employer or successor employers, to the clerk of the court where the order or judgment was granted for the purpose of paying the sums in default as well as ~~those~~ the payments to be made in the future. However, for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, payments shall be made to the alternate payee in accordance with the federal Act. ~~Where~~ If the assignment is of salary or wages due, the amount assigned shall not exceed the amount set forth in 15 U.S.C. s. ~~sec. 1673b(b) (Supp. 1979 1982)~~ and the assignment order shall be binding upon the employer only for those amounts that represent child support and only upon receipt by the employer of a copy of the order, signed by the employee. For each payment deducted in compliance with ~~such request~~ the direction, the payor may deduct a sum not exceeding ~~one dollar two~~ dollars as a reimbursement for costs. Compliance by a payor with the court's order shall operate as a discharge of the employer's liability to the payee as to the affected portion of the payee's wages, or trust income. ~~Any~~ An employer who dismisses an employee due to the entry of an assignment order commits a simple misdemeanor.

Sec. 10. Section 602.8102, subsection 47, Code 1985, is amended to read as follows:

47. Forward Record support payments made pursuant to an order entered under chapter 252A, 598, or 675, or under a comparable statute of a foreign jurisdiction and through setoff of a state or federal income tax refund or rebate, as if the payments were received and disbursed by the clerk; forward support payments received under section 252A.6 to the department of human services and furnish copies of orders and decrees awarding support to parties receiving welfare assistance as provided in section 252A.13.

Sec. 11. Section 602.8102, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. Accept a check, share draft, draft, or written order on a bank, savings and loan association, credit union, corporation, or person as payment of a support obligation which is payable to the clerk, in accordance with procedures established by the clerk to assure that such negotiable instruments will not be dishonored. The friend of court may perform the clerk's responsibilities under this subsection.

Sec. 12. Section 627.11, Code 1985, is amended to read as follows:

627.11 EXCEPTION UNDER DIVORCE DECREE FOR SPOUSAL SUPPORT.

Where If the party in whose favor the order, judgment, or decree, or judgment for the support of a spouse was rendered has not remarried, the personal earnings of the debtor shall are not be exempt from any an order, judgment, or decree for temporary or permanent alimony hereafter rendered in this state support, as defined in section 252D.1, of a spouse, nor from any an installment of any such an order, judgment, or decree heretofore rendered within this state which, by the provisions thereof, may hereafter become due for the support of a spouse.

Sec. 13. Section 627.12, Code 1985, is amended to read as follows:

627.12 EXCEPTION UNDER DECREE FOR CHILD SUPPORT OF MINORS.

The personal earnings of the debtor shall are not be exempt from any an order, judgment, or decree for the support, as defined in section 252D.1, of a minor child, or children hereafter rendered in this state nor any from an installment of any such an order, judgment, or decree heretofore rendered in this state which, by the provisions thereof, may hereafter become due for the support of a child.

Sec. 14. Section 642.21, subsection 1, Code 1985, is amended to read as follows:

1. The disposable earnings of an individual are exempt from garnishment to the extent provided by the federal Consumer Credit Protection Act, Title III, 15 U.S.C. secs. 1671-1677 (1982). The maximum amount of an employee's earnings which may be garnished during any one calendar year is two hundred fifty dollars for each judgment creditor, except as provided in section chapter 252D and sections 598.22, 598.23, and 627.12, or when those earnings are reasonably expected to be in excess of twelve thousand dollars for that calendar year as determined from the answers taken by the sheriff or by the court pursuant to section 642.5, subsection 4. When the employee's earnings are reasonably expected to be more than twelve thousand dollars the maximum amount of those earnings which may be garnished during a calendar year for each creditor is as follows:

Sec. 15. NEW SECTION. 642.23 SUPPORT DISBURSEMENTS BY THE CLERK.

Notwithstanding the seventy-day period in section 626.16 for the return of an execution in garnishment for the payment of a support obligation, the sheriff shall promptly deposit any amounts collected with the clerk of the district court, and the clerk shall disburse the amounts, after subtracting applicable fees, within ten working days of deposit to the person entitled to the support payments.

Sec. 16. Section 252D.6, Code 1985, is repealed.