

CHAPTER 1119

CHILD SUPPORT

H.F. 2332

AN ACT relating to child support, including processing and disbursement of support payments, modification of support based upon permanency orders of the juvenile court, income withholding and information sharing under the child support recovery program, nonsupport of a child or ward, providing for and making criminal penalties applicable, providing penalties, and providing for applicability and retroactive applicability.

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

Section 1. Section 252B.9, subsection 1, Code Supplement 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Notwithstanding any provision of law making this information confidential, data provided to the department by an insurance carrier under section 505.25 shall also be provided to the unit. Provision of data to the unit under this paragraph shall not require an agreement or modification of an agreement between the department and an insurance carrier, but the provisions of this section applicable to information received by the unit shall apply to the data received pursuant to section 505.25 in lieu of any confidentiality, privacy, disclosure, use, or other provisions of an agreement between the department and an insurance carrier.

Sec. 2. Section 252B.15, Code 2005, is amended by adding the following new subsection: NEW SUBSECTION. 3. Chapter 556 shall not apply to payments received by the collection services center.

Sec. 3. NEW SECTION. 252D.16A INCOME WITHHOLDING ORDER — CHILD SUPPORT RECOVERY UNIT.

If support payments are ordered under this chapter, chapter 232, 234, 252A, 252C, 252E, 252F, 252H, 598, 600B, or any other applicable chapter, or under a comparable statute of a foreign jurisdiction, and if income withholding relative to such support payments is allowed under this chapter, the child support recovery unit may enter an ex parte order notifying the person whose income is to be withheld of the procedure to file a motion to quash the order for income withholding, and ordering the withholding of sums to be deducted from the delinquent person's income as defined in section 252D.16 sufficient to pay the support obligation and requiring the payment of such sums to the collection services center. The child support recovery unit shall include the amount of any delinquency and the amount to be withheld in the notice provided to the obligor pursuant to section 252D.17A. Notice of income withholding shall be provided to the obligor and to the payor of income pursuant to sections 252D.17 and 252D.17A.

Sec. 4. Section 252D.17, subsection 8, Code 2005, is amended to read as follows:

8. If the payor knowingly, with actual knowledge and intent to avoid legal obligation, fails to withhold income or to pay the amounts withheld to the collection services center or the clerk of court in accordance with the provisions of the order, the notice of the order, or the notification of payors of income provisions established in section 252B.13A, the payor commits a simple misdemeanor for a first offense and is liable for the accumulated amount which should have been withheld, together with costs, interest, and reasonable attorney fees related to the collection of the amounts due from the payor. For each subsequent offense prescribed under this subsection, the payor commits a serious misdemeanor and is liable for the accumulated amount which should have been withheld, together with costs, interest, and reasonable attorney fees related to the collection of the amounts due from the payor.

Sec. 5. Section 252D.18, Code 2005, is amended by adding the following new subsection: NEW SUBSECTION. 1A. The child support recovery unit may modify an amount specified

in an income withholding order or notice of income withholding by providing notice to the payor of income and the obligor pursuant to sections 252D.17 and 252D.17A.

Sec. 6. Section 505.25, Code Supplement 2005, is amended to read as follows:

505.25 INFORMATION PROVIDED TO MEDICAL ASSISTANCE AND HAWK-I PROGRAMS AND THE CHILD SUPPORT RECOVERY UNIT.

A carrier, as defined in section 514C.13, shall enter into a health insurance data match program with the department of human services for the sole purpose of comparing the names of the carrier's insureds with the names of recipients of the medical assistance program under chapter 249A, individuals under the purview of the child support recovery unit pursuant to chapter 252B, or enrollees of the hawk-i program under chapter 514I.

Sec. 7. Section 598.21C, subsection 1, paragraph k, Code Supplement 2005, is amended to read as follows:

k. Entry of a dispositional or permanency order in juvenile court pursuant to chapter 232 placing custody or physical care of a child with a party who is obligated to pay support for a child. Any filing fees or court costs for a modification filed or ordered pursuant to this paragraph are waived.

Sec. 8. Section 726.5, Code 2005, is amended to read as follows:

726.5 NONSUPPORT.

A person, who being able to do so, fails or refuses to provide support for the person's child or ward under the age of eighteen years for a period longer than one year or in an amount greater than five thousand dollars commits nonsupport; provided that no person shall be held to have violated this section who fails to support any child or ward under the age of eighteen who has left the home of the parent or other person having legal custody of the child or ward without the consent of that parent or person having legal custody of the child or ward. Support, for the purposes of this section, means any support which has been fixed by court order, or, in the absence of any such order or decree, the minimal requirements of food, clothing or shelter. Nonsupport is a class "D" felony.

Sec. 9. CHILD SUPPORT RECOVERY UNIT REPORT ON EFFECTS OF NONSUPPORT PROVISION. The child support recovery unit shall submit a report to the governor and the general assembly by January 15, 2007, regarding the effects of section 726.5, as amended in this Act. The report shall include, for the period of July 1, 2006, through January 1, 2007, the total number of individuals who met the elements of nonsupport under section 726.5 and could have been charged with nonsupport, the number of individuals actually charged and prosecuted under section 726.5, and any increase in compliance with payment of support attributable to section 726.5, as amended in this Act.¹

Sec. 10. APPLICABILITY. The section of this Act amending section 598.21C applies to permanency orders entered by the juvenile court on or after July 1, 2006.

Sec. 11. RETROACTIVE APPLICABILITY — AMENDING RULES. The sections of this Act creating section 252D.16A and amending section 252D.18 are retroactively applicable to support orders and income withholding orders entered or pending before July 1, 2006. Until the department of human services amends rules pursuant to chapter 17A to conform to those sections of this Act, any existing rule regarding an amount to be withheld or an amount of a delinquency in an income withholding order shall be interpreted to also mean that the unit may specify such an amount in a notice of income withholding in lieu of an income withholding order. Any existing rule providing a right to contest a new or modified income withholding order through the unit shall be interpreted to also mean a right to contest each notice of income withholding which specifies a new or modified total amount to withhold.

Approved May 24, 2006

¹ See chapter 1184, §121 herein