

252B.5 Services of unit.

The child support recovery unit shall provide the following services:

1. Assistance in the location of an absent parent or any other person who has an obligation to support the child of the resident parent.
2. Aid in establishing paternity and securing a court or administrative order for support pursuant to chapter 252A, 252C, 252F, or 600B, or any other chapter providing for the establishment of paternity or support.
3. Aid in enforcing through court or administrative proceedings an existing court order for support issued pursuant to chapter 252A, 252C, 252F, 598, or 600B, or any other chapter under which child or medical support is granted. The director may enter into a contract with a private collection agency to collect support payments for cases which have been identified by the department as difficult collection cases if the department determines that this form of collection is more cost-effective than departmental collection methods. The department shall utilize, to the maximum extent possible, every available automated process to collect support payments prior to referral of a case to a private collection agency. A private collection agency with whom the department enters a contract under this subsection shall comply with state and federal confidentiality requirements and debt collection laws. The director may use a portion of the state share of funds collected through this means to pay the costs of any contract authorized under this subsection.
4. Assistance to set off against a debtor's income tax refund or rebate any support debt, which is assigned to the department of human services or which the child support recovery unit is attempting to collect on behalf of any individual not eligible as a public assistance recipient, which has accrued through written contract, subrogation, or court judgment, and which is in the form of a liquidated sum due and owing for the care, support, or maintenance of a child. Unless the periodic payment plan provisions for a retroactive modification pursuant to section 598.21C apply, the entire amount of a judgment for accrued support, notwithstanding compliance with a periodic payment plan or regardless of the date of entry of the judgment, is due and owing as of the date of entry of the judgment and is delinquent for the purposes of setoff, including for setoff against a debtor's federal income tax refund or other federal nontax payment. The department of human services shall adopt rules pursuant to chapter 17A necessary to assist the department of administrative services in the implementation of the child support setoff as established under section 8A.504.
5. Determine periodically whether an individual receiving unemployment compensation benefits under chapter 96 owes a support obligation which is being enforced by the unit, and enforce the support obligation through court or administrative proceedings to have specified amounts withheld from the individual's unemployment compensation benefits.
6. Assistance in obtaining medical support as defined in chapter 252E.
7. At the request of either parent who is subject to the order of support or upon its own initiation, review the amount of the support award in accordance with the guidelines established pursuant to section 598.21B, and Title IV-D of the federal Social Security Act, as amended, and take action to initiate modification proceedings if the criteria established pursuant to this section are met. However, a review of a support award is not required if the child support recovery unit determines that such a review would not be in the best interest of the child and neither parent has requested such review.

The department shall adopt rules no later than October 13, 1990, setting forth the process for review of requests for modification of support obligations and the criteria and process for taking action to initiate modification proceedings.

8. *a.* Assistance, in consultation with the department of administrative services, in identifying and taking action against self-employed individuals as identified by the following conditions:

- (1) The individual owes support pursuant to a court or administrative order being enforced by the unit and is delinquent in an amount equal to or greater than the support obligation amount assessed for one month.
- (2) The individual has filed a state income tax return in the preceding twelve months.
- (3) The individual has no reported tax withholding amount on the most recent state income tax return.
- (4) The individual has failed to enter into or comply with a formalized repayment plan with the unit.
- (5) The individual has failed to make either all current support payments in accordance with the court or administrative order or to make payments against any delinquency in each of the preceding twelve months.

b. Notwithstanding section 252B.9, the unit may forward information to the department of administrative services as necessary to implement this subsection, including but not limited to both of the following:

- (1) The name and social security number of the individual.
- (2) Support obligation information in the specific case, including the amount of the delinquency.

9. The review and adjustment, modification, or alteration of a support order pursuant to chapter 252H upon adoption of rules pursuant to chapter 17A and periodic notification, at a minimum of once every three years, to parents subject to a support order of their rights to these services.

10. The unit shall not establish orders for spousal support. The unit shall enforce orders for spousal support only if the spouse is the custodial parent of a child for whom the unit is also enforcing a child support or medical support order.

11. *a.* Comply with federal procedures to periodically certify to the secretary of the United States department of health and human services, a list of the names of obligors determined by the unit to owe delinquent support, under a support order as defined in section 252J.1, in excess of two thousand five hundred dollars. The certification of the delinquent amount owed may be based upon one or more support orders being enforced by the unit if the delinquent support owed exceeds two thousand five hundred dollars. The certification shall include any amounts which are delinquent pursuant to the periodic payment plan when a modified order has been retroactively applied. The certification shall be in a format and shall include any supporting documentation required by the secretary.

b. All of the following shall apply to an action initiated by the unit under this subsection:

(1) The obligor shall be sent a notice by regular mail in accordance with federal law and regulations and the notice shall remain in effect until support delinquencies have been paid in full. The notice shall include all of the following:

- (a) A statement regarding the amount of delinquent support owed by the obligor.
- (b) A statement providing information that if the delinquency is in excess of two thousand five hundred dollars, the United States secretary of state may apply a passport sanction by revoking, restricting, limiting, or refusing to issue a passport as provided in 42 U.S.C. § 652(k).
- (c) Information regarding the procedures for challenging the certification by the unit.

(2) (a) A challenge shall be based upon mistake of fact. For the purposes of this subsection, "*mistake of fact*" means a mistake in the identity of the obligor or a mistake in the amount of the delinquent child support owed if the amount did not exceed two thousand five hundred dollars on the date of the unit's decision on the

challenge.

If the obligor chooses to challenge the certification, the obligor shall notify the unit within the time period specified in the notice to the obligor. The obligor shall include any relevant information with the challenge.

(b) Upon timely receipt of the challenge, the unit shall review the certification for a mistake of fact, or refer the challenge for review to the child support agency in the state chosen by the obligor as provided by federal law.

(c) Following the unit's review of the certification, the unit shall send a written decision to the obligor within ten days of timely receipt of the challenge.

(i) If the unit determines that a mistake of fact exists, the unit shall send notification in accordance with federal procedures withdrawing the certification for passport sanction.

(ii) If the unit determines that a mistake of fact does not exist, the obligor may contest the determination within ten days following the issuance of the decision by submitting a written request for a contested case proceeding pursuant to chapter 17A.

(3) Following issuance of a final decision under chapter 17A that no mistake of fact exists, the obligor may request a hearing before the district court pursuant to chapter 17A. The department shall transmit a copy of its record to the district court pursuant to chapter 17A. The scope of the review by the district court shall be limited to demonstration of a mistake of fact. Issues related to visitation, custody, or other provisions not related to the support provisions of a support order are not grounds for a hearing under this subsection.

c. Following certification to the secretary, if the unit determines that an obligor no longer owes delinquent support in excess of two thousand five hundred dollars, the unit shall provide information and notice as the secretary requires to withdraw the certification for passport sanction.

12. a. Beginning October 1, 2007, implement the provision of the federal Deficit Reduction Act of 2005, Pub. L. No. 109-171 § 7310, requiring an annual collections fee of twenty-five dollars in child support cases in which the family has never received assistance under Title IV-A of the federal Social Security Act for whom the unit has collected at least five hundred dollars. After the first five hundred dollars in support is collected in each year for a family, the fee shall be collected from the obligor by retaining twenty-five dollars from subsequent collections. If five hundred dollars but less than five hundred twenty-five dollars is collected in any year, any unpaid portion of the annual fee shall not accumulate and is not due. Any amount retained to pay the twenty-five dollar fee shall not reduce the amount of support due under the support order. The unit shall send information regarding the requirements of this subsection by regular mail to the last known address of an affected obligor or obligee, or may include the information for an obligee in an application for services signed by the obligee. In addition, the unit shall take steps necessary regarding the fee to qualify for federal funds in conformity with the provisions of Title IV-D of the federal Social Security Act, including receiving and accounting for fee payments, as appropriate, through the collection services center created in section 252B.13A.

b. Fees collected pursuant to this subsection shall be considered repayment receipts as defined in section 8.2, and shall be used for the purposes of the unit. The director shall maintain an accurate record of the fees collected and expended under this subsection.

c. If any requirement in paragraph "a" for implementation of the annual fee does not conform to federal law, the fee shall instead be implemented in conformance with federal law. Additionally, if federal law does not permit collection of the annual fee from the obligor as provided in paragraph "a", the fee shall be collected from the obligee by retaining a twenty-five dollar fee from support paid by the obligor.

[C77, 79, 81, § 252B.5; 82 Acts, ch 1260, § 123]

83 Acts, ch 96, § 157, 159; 90 Acts, ch 1224, § 4, 5; 92 Acts, ch 1195, § 503; 93 Acts, ch 78, §8; 93 Acts, ch 79, § 33, 38; 94 Acts, ch 1171, §15; 97 Acts, ch 41, § 32; 97 Acts, ch 175, § 3033; 98 Acts, ch 1170, §34; 2001 Acts, ch 79, §2, 4; 2003 Acts, ch 145, §219, 220; 2005 Acts, ch 69, §8, 9; 2007 Acts, ch 218, §45, 137141

For future amendments to subsection 2 effective March 1, 2008, see 2007 Acts, ch 218, §157, 187

For transition provisions applicable to existing child support recovery unit rules, procedures, definitions, and requirements, and for nullification of 441 IAC rule 98.3, see 2007 Acts, ch 218, §186