

HSBG22

HUMAN RESOURCES

*Doddicker  
Braers  
Smith*

SENATE/HOUSE FILE *02295*  
BY (PROPOSED DEPARTMENT OF  
HUMAN SERVICES BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to child support including provisions relating to  
2 medical support and the calculation of the child support  
3 amount relative to receipt of federal social security  
4 benefits.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 252D.18A, subsection 1, Code 2001, is  
2 amended to read as follows:

3 1. The total of all amounts withheld shall not exceed the  
4 amounts specified in 15 U.S.C. § 1673(b). For orders or  
5 notices issued by the child support recovery unit, the limit  
6 for the amount to be withheld shall be specified in the order  
7 or notice.

8 Sec. 2. Section 252D.18A, subsection 3, paragraph b, Code  
9 2001, is amended to read as follows:

10 b. If, after completing the calculation in paragraph "a",  
11 the withholding limit specified under ~~15-U.S.C.-§-1673(b)~~  
12 subsection 1 has not been attained, the payor shall total the  
13 amounts due for arrearages and determine the proportionate  
14 share for each obligee. The proportionate share amounts shall  
15 be established utilizing the procedures established in  
16 paragraph "a" for current support obligations.

17 Sec. 3. Section 252E.1, Code 2001, is amended to read as  
18 follows:

19 252E.1 DEFINITIONS.

20 As used in this chapter, unless the context otherwise  
21 requires:

22 1. "Accessible" means any of the following, unless  
23 otherwise provided in the support order:

24 a. The health benefit plan does not have service area  
25 limitations or provides an option not subject to service area  
26 limitations.

27 b. The health benefit plan has service area limitations  
28 and the dependent lives within thirty miles or thirty minutes  
29 of a network primary care provider.

30 2. "Basic coverage" means coverage provided under a health  
31 benefit plan that at a minimum provides coverage for emergency  
32 care, inpatient and outpatient hospital care, physician  
33 services whether provided within or outside a hospital  
34 setting, and laboratory and x-ray services.

35 ~~1-~~ 3. "Child" means a person for whom child or medical

1 support may be ordered pursuant to chapter 234, 239B, 252A,  
2 252C, 252F, 252H, 252K, 598, 600B or any other chapter of the  
3 Code or pursuant to a comparable statute of a foreign  
4 jurisdiction.

5 2- 4. "Department" means the department of human services,  
6 which includes but is not limited to the child support  
7 recovery unit, or any comparable support enforcement agency of  
8 another state.

9 3- 5. "Dependent" means a child, or an obligee for whom a  
10 court may order coverage by a health benefit plan pursuant to  
11 section 252E.3.

12 4- 6. "Enroll" means to be eligible for and covered by a  
13 health benefit plan.

14 5- 7. "Health benefit plan" means any policy or contract  
15 of insurance, indemnity, subscription or membership issued by  
16 an insurer, health service corporation, health maintenance  
17 organization, or any similar corporation, organization, or a  
18 self-insured employee benefit plan, for the purpose of  
19 covering medical expenses. These expenses may include, but  
20 are not limited to hospital, surgical, major medical  
21 insurance, dental, optical, prescription drugs, office visits,  
22 or any combination of these or any other comparable health  
23 care expenses.

24 6- 8. "Insurer" means any entity which provides a health  
25 benefit plan.

26 7- 9. "Medical support" means either the provision of a  
27 health benefit plan, including a group or employment-related  
28 or an individual health benefit plan, or a health benefit plan  
29 provided pursuant to chapter 514E, to meet the medical needs  
30 of a dependent and the cost of any premium required by a  
31 health benefit plan, or the payment to the obligee of a  
32 monetary amount in lieu of a health benefit plan, either of  
33 which is an obligation separate from any monetary amount of  
34 child support ordered to be paid. Medical support is not  
35 alimony.

1     10. "National medical support notice" means a notice as  
2 prescribed under 42 U.S.C. § 666(a)(19) or a substantially  
3 similar notice, that is issued and forwarded by the department  
4 to enforce medical support provisions of a support order.

5     ~~8-~~ 11. "Obligee" means a parent or another natural person  
6 legally entitled to receive a support payment on behalf of a  
7 child.

8     ~~9-~~ 12. "Obligor" means a parent or another natural person  
9 legally responsible for the support of a dependent.

10     ~~10-~~ 13. "Order" means a support order entered pursuant to  
11 chapter 234, 252A, 252C, 252F, 252H, 252K, 598, 600B, or any  
12 other support chapter, or pursuant to a comparable statute of  
13 a foreign jurisdiction, or an ex parte order entered pursuant  
14 to section 252E.4. "Order" also includes a notice of such an  
15 order issued by the child-support-recovery-unit-to-an-employer  
16 department.

17     14. "Plan administrator" means the employer or sponsor  
18 that offers the health benefit plan or the person to whom the  
19 duty of plan administrator is delegated by the employer or  
20 sponsor offering the health benefit plan, by written agreement  
21 of the parties.

22     15. "Primary care provider" means a physician who provides  
23 primary care who is a family or general practitioner, a  
24 pediatrician, an internist, an obstetrician, or a  
25 gynecologist.

26     Sec. 4. Section 252E.2, subsection 2, unnumbered paragraph  
27 1, Code 2001, is amended to read as follows:

28     An insurer who is subject to the federal Employee  
29 Retirement Income Security Act, as codified in 29 U.S.C. §  
30 1169, shall provide benefits in accordance with that section  
31 which meet the requirements of a qualified medical child  
32 support order. For the purposes of this subsection "qualified  
33 medical child support order" means and includes a medical  
34 child support order as defined in 29 U.S.C. § 1169, or a child  
35 support order which creates or recognizes the existence of a

1 child's right to, or assigns to a child the right to, receive  
2 benefits for which a participant or child is eligible under a  
3 group health plan or a notice of such an order issued by the  
4 ~~child-support-recovery-unit~~ department, and which specifies  
5 the following:

6 Sec. 5. Section 252E.4, subsection 1, Code 2001, is  
7 amended to read as follows:

8 1. When a support order requires an obligor to provide  
9 coverage under a health benefit plan, the district court or  
10 the department may enter an ex parte order directing an  
11 employer to take all actions necessary to enroll an obligor's  
12 dependent for coverage under a health benefit plan or may  
13 include the provisions in an ex parte income withholding order  
14 or notice of income withholding pursuant to chapter 252D. The  
15 child support recovery unit, where appropriate, shall issue a  
16 national medical support notice to an employer within two  
17 business days after the date information regarding a newly  
18 hired employee is entered into the centralized employee  
19 registry and matched with a noncustodial parent in the case  
20 being enforced by the unit. The department may amend the  
21 information in the ex parte order or may amend or terminate  
22 the national medical support notice regarding health insurance  
23 provisions if necessary to comply with health insurance  
24 requirements including but not limited to the provisions of  
25 section 252E.2, subsection 2, or to correct a mistake of fact.

26 Sec. 6. Section 252E.5, subsections 1 and 3, Code 2001,  
27 are amended to read as follows:

28 1. When the order has been forwarded to the obligor's  
29 employer pursuant to section 252E.4, the order is binding on  
30 the employer and the employer's insurer to the extent that the  
31 dependent is eligible to be enrolled in the plan under the  
32 applicable terms and conditions of the health benefit plan and  
33 the standard enrollment guidelines of the insurer. The  
34 employer shall allow enrollment of the dependent at any time,  
35 notwithstanding any enrollment season restrictions. If a

1 provision of this section conflicts with a provision in the  
2 national medical support notice, or in subsection 9, the  
3 provision in the notice and subsection 9 shall apply.

4 3. The employer shall withhold from the employee's  
5 compensation, the employee's share, if any, of premiums for  
6 the health benefit plan in an amount that does not exceed the  
7 amount specified in the national medical support notice or the  
8 amount specified in 15 U.S.C. § 1673(b) and which is  
9 consistent with federal law. The employer shall forward the  
10 amount withheld to the insurer.

11 Sec. 7. Section 252E.5, Code 2001, is amended by adding  
12 the following new subsection:

13 NEW SUBSECTION. 9. If the department issues a national  
14 medical support notice to an employer or plan administrator,  
15 all of the following shall apply:

16 a. The employer and plan administrator shall comply with  
17 the provisions in the notice.

18 b. The employer and the plan administrator shall treat the  
19 notice as an application by the department for health benefit  
20 plan coverage for the dependent to the extent such application  
21 is required by the health benefit plan.

22 c. If the obligor named in the notice is not an employee  
23 of the employer, or if a health benefit plan is not offered or  
24 available to the employee, the employer shall notify the  
25 department, as provided in the notice, within twenty business  
26 days after the date of the notice.

27 d. If a health benefit plan is offered or available to the  
28 employee, the employer shall send the plan administrator's  
29 portion of the notice to each appropriate plan administrator  
30 within twenty business days after the date of the notice.

31 e. Upon notification from the plan administrator that the  
32 dependent is enrolled, the employer shall either withhold and  
33 forward the premiums as provided in subsection 3, or shall  
34 notify the department that the enrollment cannot be completed  
35 due to limits established for withholding as provided in

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1 subsection 3.

2 f. If the plan administrator notifies the employer that  
3 the obligor is subject to a waiting period that expires more  
4 than ninety days from the date of receipt of the notice by the  
5 plan administrator or that the obligor is subject to a waiting  
6 period that is measured in a manner other than the passage of  
7 time, the employer shall notify the plan administrator when  
8 the obligor becomes eligible to enroll in the plan and that  
9 the notice requires enrollment in the plan of the dependent  
10 named in the notice.

11 g. The plan administrator shall enroll the dependent, and  
12 if necessary to enrollment of the dependent shall also enroll  
13 the obligor, in the plan selected in accordance with this  
14 paragraph. All of the following shall apply to the selection  
15 of the plan:

16 (1) If the obligor is enrolled in a health benefit plan  
17 that offers dependent coverage, that plan shall be selected.

18 (2) If the obligor is not enrolled in a plan or is not  
19 enrolled in a plan that offers dependent coverage, and if only  
20 one plan with dependent coverage is offered by the employer,  
21 that plan shall be selected.

22 (3) If the obligor is not enrolled in a health benefit  
23 plan or is not enrolled in a health benefit plan that offers  
24 dependent coverage, if more than one plan with dependent  
25 coverage is offered by the employer, and if the notice is  
26 issued by the child support recovery unit, all of the  
27 following shall apply:

28 (a) If only one of the plans is accessible to the  
29 dependent, that plan shall be selected. If none of the plans  
30 with dependent coverage is accessible to the dependent, the  
31 unit shall amend or terminate the notice.

32 (b) If more than one of the plans is accessible to the  
33 dependent, the plan selected shall be the plan that provides  
34 basic coverage for which the employee's share of the premium  
35 is lowest.

1 (c) If more than one of the plans is accessible to the  
2 dependent but none of the accessible plans provides basic  
3 coverage, the plan selected shall be a plan that is accessible  
4 and for which the employee's share of the premium is lowest.

5 (d) If the employee's share of the premiums is the same  
6 under all plans described in subparagraphs (b) or (c), the  
7 unit shall attempt to consult with the obligee when selecting  
8 the plan. If the obligee does not respond within ten days of  
9 the unit's attempt, the unit shall select a plan which shall  
10 be the plan's default option, if any, or the plan with the  
11 lowest deductibles and copayment requirements.

12 (4) If the obligor is not enrolled in a health benefit  
13 plan or is not enrolled in a health benefit plan that offers  
14 dependent coverage, if more than one plan with dependent  
15 coverage is offered by the employer, and if the notice is  
16 issued by the child support enforcement agency of another  
17 state, that agency shall select the plan as provided in  
18 paragraph "h", subparagraph (3).

19 h. Within forty business days after the date of the  
20 notice, the plan administrator shall do all of the following  
21 as directed by the notice:

22 (1) Complete the appropriate portion of the notice and  
23 return the portion to the department.

24 (2) If the dependent is or is to be enrolled, notify the  
25 obligor, the obligee, and the child and furnish the obligee  
26 with necessary information. Provide the child support  
27 recovery unit with the type of health benefit plan under which  
28 the dependent has been enrolled, including whether dental,  
29 optical, office visits, and prescription drugs are covered  
30 services.

31 (3) If more than one health benefit plan is available to  
32 the obligor and the obligor is not enrolled, forward plan  
33 descriptions and documents to the department and enroll the  
34 dependent, and if necessary the obligor, in the plan selected  
35 by the department or in any default option if the plan

1 administrator has not received a selection from the department  
2 within twenty business days of the date the plan administrator  
3 returned the national medical support notice response to the  
4 department.

5 (4) If the obligor is subject to a waiting period that  
6 expires more than ninety days from the date of receipt of the  
7 notice by the plan administrator or if the obligor has not  
8 completed a waiting period that is measured in a manner other  
9 than the passage of time, notify the employer, the department,  
10 the obligor, and the obligee. Upon satisfaction of the period  
11 or requirement, complete the enrollment.

12 (5) Upon completion of the enrollment, notify the employer  
13 for a determination of whether the necessary employee share of  
14 the premium is available.

15 (6) If the plan administrator is subject to the federal  
16 Employee Retirement Income Security Act, as codified in 29  
17 U.S.C. § 1169, or is subject to the federal Child Support  
18 Performance and Incentive Act of 1998, Pub. L. No. 105-200, §  
19 401, subsection (e) or (f) and the plan administrator  
20 determines the notice does not constitute a qualified medical  
21 child support order, complete and send the response to the  
22 department and notify the obligor, the obligee, and the child  
23 of the specific reason for the determination.

24 Sec. 8. Section 252E.6, subsection 2, Code 2001, is  
25 amended to read as follows:

26 2. For cases for which services are being provided  
27 pursuant to chapter 252B, the department shall notify the  
28 employer when there is no longer a current order for medical  
29 support in effect for which the department is responsible.  
30 However, termination of ~~an-obligee's~~ medical support ordered  
31 pursuant to section 252E.3 shall be governed by the insurer's  
32 health benefit plan provisions for termination and by  
33 applicable federal law.

34 Sec. 9. Section 252E.6A, Code 2001, is amended to read as  
35 follows:

1 252E.6A MOTION TO QUASH.

2 1. An obligor may move to quash the order to the employer  
3 under section 252E.4 by following the same procedures and  
4 alleging a mistake of a fact as provided in section 252D.31 or  
5 as provided in subsection 2. If the unit is enforcing an  
6 income withholding order and a medical support order  
7 simultaneously, any challenge to the income withholding order  
8 and medical support enforcement shall be filed and heard  
9 simultaneously.

10 2. The obligor may allege as a mistake of fact an error in  
11 the availability of dependent coverage under the health  
12 benefit plan because the coverage is not accessible to the  
13 dependent. Even if the plan is not accessible as defined in  
14 section 252E.1, the court may determine that the plan is  
15 substantially accessible if the obligee demonstrates that the  
16 dependent may receive a benefit under the plan. Section  
17 252K.316 relating to evidence and procedure shall apply to the  
18 court proceeding.

19 ~~2.~~ 3. The employer shall comply with the requirements of  
20 this chapter until the employer receives notice that a motion  
21 to quash has been granted, or that the unit has amended or  
22 terminated the national medical support notice.

23 Sec. 10. Section 252H.2, subsection 12, Code 2001, is  
24 amended to read as follows:

25 12. "State" means "state" as defined in section ~~252A.2~~  
26 252K.101.

27 Sec. 11. Section 252H.3, subsection 1, Code 2001, is  
28 amended to read as follows:

29 1. Any action initiated under this chapter, including any  
30 court hearing resulting from an action, shall be limited in  
31 scope to the adjustment or modification of the child or  
32 medical support or cost-of-living alteration of the child  
33 support provisions of a support order. A determination of a  
34 controlling order is within the scope of this chapter. If the  
35 social security disability provisions of sections 598.22 and

1 598.22C apply, a determination of the amount of delinquent  
2 support due is within the scope of this chapter.

3 Sec. 12. Section 252H.8, subsection 4, paragraph g, Code  
4 2001, is amended to read as follows:

5 g. Copies of any computation worksheet prepared by the  
6 unit to determine the amount of support calculated using the  
7 mandatory child support guidelines established under section  
8 598.21, subsection 4, and, if appropriate and the social  
9 security disability provisions of sections 598.22 and 598.22C  
10 apply, a determination of the amount of delinquent support  
11 due.

12 Sec. 13. Section 252H.9, subsection 3, Code 2001, is  
13 amended by adding the following new paragraph:

14 NEW PARAGRAPH. h. If applicable, the amount of delinquent  
15 support due based upon the receipt of social security  
16 disability payments as provided in sections 598.22 and  
17 598.22C.

18 Sec. 14. Section 252H.16, subsection 1, Code 2001, is  
19 amended to read as follows:

20 1. The unit shall conduct the review and determine whether  
21 an adjustment is appropriate. As necessary, the unit shall  
22 make a determination of the controlling order or the amount of  
23 delinquent support due based upon the receipt of social  
24 security disability payments as provided in sections 598.22  
25 and 598.22C.

26 Sec. 15. Section 252H.22, Code 2001, is amended by adding  
27 the following new subsection:

28 NEW SUBSECTION. 6. The support order is not subject to  
29 the social security disability provisions pursuant to sections  
30 598.22 and 598.22C.

31 Sec. 16. Section 598.21, subsection 4, Code Supplement  
32 2001, is amended by adding the following new paragraph:

33 NEW PARAGRAPH. f. For the purposes of including a child's  
34 dependent benefit in calculating a support obligation under  
35 this section for a child whose parent has been awarded

1 disability benefits under the federal Social Security Act, the  
2 provisions of section 598.22C shall apply.

3 Sec. 17. Section 598.22, unnumbered paragraph 1, Code  
4 2001, is amended to read as follows:

5 Except as otherwise provided in section 598.22A, this  
6 section applies to all initial or modified orders for support  
7 entered under this chapter, chapter 234, 252A, 252C, 252F,  
8 600B, or any other chapter of the Code. All orders or  
9 judgments entered under chapter 234, 252A, 252C, 252F, or  
10 600B, or under this chapter or any other chapter which provide  
11 for temporary or permanent support payments shall direct the  
12 payment of those sums to the clerk of the district court or  
13 the collection services center in accordance with section  
14 252B.14 for the use of the person for whom the payments have  
15 been awarded. Beginning October 1, 1999, all income  
16 withholding payments shall be directed to the collection  
17 services center. Payments to persons other than the clerk of  
18 the district court and the collection services center do not  
19 satisfy the support obligations created by the orders or  
20 judgments, except as provided for trusts governed by the  
21 federal Retirement Equity Act of 1984, Pub. L. No. 98-397, for  
22 tax refunds or rebates in section 602.8102, subsection 47, or  
23 for dependent benefits paid to the child support obligee as  
24 the result of disability benefits awarded to the child support  
25 obligor under the federal Social Security Act. For trusts  
26 governed by the federal Retirement Equity Act of 1984, Pub. L.  
27 No. 98-397, the order for income withholding or notice of the  
28 order for income withholding shall require the payment of such  
29 sums to the alternate payee in accordance with the federal  
30 Act. For dependent benefits paid to the child support obligee  
31 as a result of disability benefits awarded to the child  
32 support obligor under the federal Social Security Act, the  
33 provisions of section 598.22C shall apply.

34 Sec. 18. NEW SECTION. 598.22C CHILD SUPPORT -- SOCIAL  
35 SECURITY DISABILITY DEPENDENT BENEFITS.

1 If dependent benefits are paid for a child as a result of  
2 disability benefits awarded to the child's parent under the  
3 federal Social Security Act, all of the following shall apply:

4 1. Unless the court otherwise provides, dependent benefits  
5 paid to the child support obligee as a result of disability  
6 benefits awarded to the child support obligor fully satisfy  
7 and substitute for the support obligations for the same period  
8 of time for which the benefits are awarded.

9 2. For the purposes of calculating a support obligation  
10 under section 598.21, subsection 4, the dependent benefits  
11 paid for any child shall be included as income to the disabled  
12 parent.

13 3. a. Any order or judgment for support for a child for  
14 whom social security disability benefits are paid to the child  
15 support obligee as a result of disability benefits awarded to  
16 the child support obligor shall include all of the following:

17 (1) The dollar amount of the child support obligation as  
18 calculated by application of the guidelines under section  
19 598.21, subsection 4, and a statement that the social security  
20 dependent benefits are included as income to the obligor in  
21 that calculation.

22 (2) The dollar amount of the social security dependent  
23 benefits paid to the obligee which shall be dollar-for-dollar  
24 satisfaction of the obligor's child support obligation.

25 (3) The dollar amount, if any, the obligor shall pay after  
26 application of the social security dependent benefits as a  
27 credit to or dollar-for-dollar satisfaction of the child  
28 support obligation.

29 b. The amount of the child support obligation stated in  
30 the order, and the amount the obligor shall pay after  
31 application of the social security disability dependent  
32 benefit credit or satisfaction stated in the order, shall  
33 continue until modified, as provided in section 598.21.

34 4. The amount of any child support obligation satisfied  
35 under this section based upon the receipt of dependent

1 benefits paid to the child support obligee as a result of  
2 disability benefits awarded to the child support obligor shall  
3 not be considered delinquent.

4 EXPLANATION

5 This bill makes changes in the law relating to child  
6 support including those relating to medical support and the  
7 calculation of the child support amount relative to receipt by  
8 a parent of federal social security disability benefits.

9 The bill amends Code chapter 252E, relating to medical  
10 support, to reflect federal requirements for use of a national  
11 medical support notice. The bill provides definitions,  
12 provides directives to employers and to health benefit plan  
13 administrators in complying with the medical support notice,  
14 and provides criteria and a procedure to be used in the  
15 selection of a health benefit plan in order to comply with the  
16 medical support notice. The bill also makes conforming  
17 changes in Code chapter 252D, relating to income withholding,  
18 to reflect the changes relating to the medical support notice.

19 The bill also amends Code chapter 252H, relating to the  
20 adjustment and modification of support orders, and Code  
21 chapter 598, relating to dissolution of marriage and domestic  
22 relations, to reflect the decision of the Iowa Supreme Court  
23 in *In re Marriage of Hilmo*, 623 N.W.2d 809, relating to the  
24 effect of receipt of social security disability (SSD) payments  
25 on the calculation of the child support amount owed and  
26 payment of the obligation. In *Hilmo*, the court held that if a  
27 child receives SSD benefits as the result of a parent's  
28 disability, the payment amount is to be included as income to  
29 the parent when calculating the amount of child support.  
30 After calculating the amount of child support, if the disabled  
31 parent is the obligor, the obligor's support obligation is  
32 then to be credited, dollar for dollar, in the amount of the  
33 SSD payment made to the dependent, with any remaining  
34 obligation amount to be paid by the obligor. Currently, if a  
35 child receives SSD benefits as the result of the obligor's

1 disability, notwithstanding the amount of the child support  
2 obligation calculated under the child support guidelines, the  
3 SSD payment to the dependent is considered payment in full of  
4 the obligation.

5 The bill amends Code chapter 252H to allow for a  
6 determination of the amount of delinquent support due as part  
7 of an administrative adjustment or modification of a support  
8 order if the order involves receipt of SSD payments. The bill  
9 amends Code chapter 598 to provide that unless the court  
10 otherwise provides, dependent benefits paid to a child support  
11 obligee as a result of SSD benefits awarded to an obligor are  
12 to fully satisfy and substitute for the support obligation for  
13 the same period of time for which benefits are awarded. The  
14 bill also provides that the SSD dependent benefit payment  
15 amount is to be included as income to the disabled parent when  
16 calculating the child support obligation amount. Under the  
17 bill, an order or judgment for support for a child for whom  
18 SSD dependent benefit payments are paid to the child support  
19 obligee is to include all of the following: a statement of  
20 the dollar amount of the child support obligation as  
21 calculated under the child support guidelines and that the SSD  
22 dependent benefit payment amount was included as income to the  
23 obligor in calculation of the child support obligation amount;  
24 the dollar amount of the SSD dependent benefit payment made to  
25 the obligee which is to satisfy the obligation amount on a  
26 dollar-for-dollar basis; and the dollar amount, if any, that  
27 the obligor is to pay following application of the SSD  
28 dependent benefit payment amount to the obligation amount.  
29 The bill also provides that the amount of the child support  
30 obligation satisfied by the application of the SSD dependent  
31 benefit payment to the obligation amount is not to be  
32 considered delinquent.

33 The bill makes a technical correction relating to a  
34 definitional reference to the word "state" in Code section  
35 252H.2.



ASB 622

# STATE OF IOWA

THOMAS J. VILSACK, GOVERNOR  
SALLY J. PEDERSON, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES  
JESSIE K. RASMUSSEN, DIRECTOR

TO: Members of the General Assembly

FROM: Jessie K. Rasmussen, Director

DATE: January 22, 2002

The Iowa Department of Human Services (DHS) is proposing legislation relating to:

1. Incorporating into chapter 252E the requirements for the National Medical Support Notice. The national notice is a federal mandate under Title IV-D of the Social Security Act for all state child support agencies. Iowa must implement this notice by July 1, 2002. The intent of the requirements is to increase the number of children covered by insurance by adopting uniform notices and procedures regardless of where the court order was entered or where the parent is employed. The Child Support Recovery Unit (CSRU) will use the new form to notify an employer if the court has ordered a noncustodial parent to provide health care coverage for his or her child. As with the current form CSRU uses, if the employer offers health insurance, the notice directs the employer to enroll the child, and to withhold the appropriate premiums. The new form, however, will be a standard notice that was required by Congress in response to requests from employers that all state child support agencies use the same format. The standardization includes uniform timeframes and duties for CSRU, employers and their insurers. The federal law requires state selection of coverage if the parent has not already enrolled the child in his or her plan and the employer offers more than one plan option. This bill would codify the criteria for selection so that the public is aware of the considerations.

2. Changing the way child support payments are affected if the child receives social security dependents benefits because the child's mother or father is disabled. The changes are based upon a decision entered last year by the Iowa Supreme Court in In re Marriage of Hilmo, 623 NW2d 809. Before the Hilmo decision, when CSRU applied the Supreme Court's guidelines to calculate the child support obligation, it did not include the child's social security benefit amount as income to the disabled parent. Also, under section 598.22, if the disabled parent was the obligor, the monthly social security benefit received for the child completely paid or satisfied the child support, regardless of the amount the parent had been ordered to pay.

The amendments in this bill are aligned with the Supreme Court's decision that when calculating child support, a child's social security dependent's benefit is counted as income to the disabled parent. Also, rather than a full credit or satisfaction for a disabled obligor, if the child support obligation is higher than the child's monthly social security benefit, the child's benefit amount is subtracted from the child support amount and the obligor owes the difference. The bill also clarifies that the current practice continues until the court modifies that family's order. The bill allows CSRU to include a determination of arrears in social security-related modification orders it prepares for the court under chapter 252H. This provides a way for parents and CSRU to determine if any arrears are due in their cases because of the change in policy.

3. Finally, the bill contains a technical correction to a definition in chapter 252H which was identified by the Legislative Service Bureau.

If you have any questions or concerns, Kate Walton is our Legislative Liaison. You may contact her at 281-4387 or at [kw Walton@dhs.state.ia.us](mailto:kw Walton@dhs.state.ia.us).

*Substitute for*  
SF 2270  
3-6-02  
(P. 519)

FEB 18 2002  
Place On Calendar

REPRINTED

HOUSE FILE 2395  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 622)

Passed House, Date <sup>(P.577)</sup> 3/4/02 Passed Senate, <sup>(P.520)</sup> Date 3-6-02  
Vote: Ayes 97 Nays 0 Vote: Ayes 47 Nays 0  
Approved March 15, 2002

A BILL FOR

1 An Act relating to child support including provisions relating to  
2 medical support and the calculation of the child support  
3 amount relative to receipt of federal social security  
4 benefits.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2395

1 Section 1. Section 252D.18A, subsection 1, Code 2001, is  
2 amended to read as follows:

3 1. The total of all amounts withheld shall not exceed the  
4 amounts specified in 15 U.S.C. § 1673(b). For orders or  
5 notices issued by the child support recovery unit, the limit  
6 for the amount to be withheld shall be specified in the order  
7 or notice.

8 Sec. 2. Section 252D.18A, subsection 3, paragraph b, Code  
9 2001, is amended to read as follows:

10 b. If, after completing the calculation in paragraph "a",  
11 the withholding limit specified under ~~15-U-S-C-§-1673(b)~~  
12 subsection 1 has not been attained, the payor shall total the  
13 amounts due for arrearages and determine the proportionate  
14 share for each obligee. The proportionate share amounts shall  
15 be established utilizing the procedures established in  
16 paragraph "a" for current support obligations.

17 Sec. 3. Section 252E.1, Code 2001, is amended to read as  
18 follows:

19 252E.1 DEFINITIONS.

20 As used in this chapter, unless the context otherwise  
21 requires:

22 1. "Accessible" means any of the following, unless  
23 otherwise provided in the support order:

24 a. The health benefit plan does not have service area  
25 limitations or provides an option not subject to service area  
26 limitations.

27 b. The health benefit plan has service area limitations  
28 and the dependent lives within thirty miles or thirty minutes  
29 of a network primary care provider.

30 2. "Basic coverage" means coverage provided under a health  
31 benefit plan that at a minimum provides coverage for emergency  
32 care, inpatient and outpatient hospital care, physician  
33 services whether provided within or outside a hospital  
34 setting, and laboratory and x-ray services.

35 ~~1-~~ 3. "Child" means a person for whom child or medical

1 support may be ordered pursuant to chapter 234, 239B, 252A,  
2 252C, 252F, 252H, 252K, 598, 600B or any other chapter of the  
3 Code or pursuant to a comparable statute of a foreign  
4 jurisdiction.

5 ~~2~~ 4. "Department" means the department of human services,  
6 which includes but is not limited to the child support  
7 recovery unit, or any comparable support enforcement agency of  
8 another state.

9 ~~3~~ 5. "Dependent" means a child, or an obligee for whom a  
10 court may order coverage by a health benefit plan pursuant to  
11 section 252E.3.

12 ~~4~~ 6. "Enroll" means to be eligible for and covered by a  
13 health benefit plan.

14 ~~5~~ 7. "Health benefit plan" means any policy or contract  
15 of insurance, indemnity, subscription or membership issued by  
16 an insurer, health service corporation, health maintenance  
17 organization, or any similar corporation, organization, or a  
18 self-insured employee benefit plan, for the purpose of  
19 covering medical expenses. These expenses may include, but  
20 are not limited to hospital, surgical, major medical  
21 insurance, dental, optical, prescription drugs, office visits,  
22 or any combination of these or any other comparable health  
23 care expenses.

24 ~~6~~ 8. "Insurer" means any entity which provides a health  
25 benefit plan.

26 ~~7~~ 9. "Medical support" means either the provision of a  
27 health benefit plan, including a group or employment-related  
28 or an individual health benefit plan, or a health benefit plan  
29 provided pursuant to chapter 514E, to meet the medical needs  
30 of a dependent and the cost of any premium required by a  
31 health benefit plan, or the payment to the obligee of a  
32 monetary amount in lieu of a health benefit plan, either of  
33 which is an obligation separate from any monetary amount of  
34 child support ordered to be paid. Medical support is not  
35 alimony.

1 10. "National medical support notice" means a notice as  
2 prescribed under 42 U.S.C. § 666(a)(19) or a substantially  
3 similar notice, that is issued and forwarded by the department  
4 to enforce medical support provisions of a support order.

5 ~~8-~~ 11. "Obligee" means a parent or another natural person  
6 legally entitled to receive a support payment on behalf of a  
7 child.

8 ~~9-~~ 12. "Obligor" means a parent or another natural person  
9 legally responsible for the support of a dependent.

10 ~~10-~~ 13. "Order" means a support order entered pursuant to  
11 chapter 234, 252A, 252C, 252F, 252H, 252K, 598, 600B, or any  
12 other support chapter, or pursuant to a comparable statute of  
13 a foreign jurisdiction, or an ex parte order entered pursuant  
14 to section 252E.4. "Order" also includes a notice of such an  
15 order issued by the child-support-recovery-unit-to-an-employer  
16 department.

17 14. "Plan administrator" means the employer or sponsor  
18 that offers the health benefit plan or the person to whom the  
19 duty of plan administrator is delegated by the employer or  
20 sponsor offering the health benefit plan, by written agreement  
21 of the parties.

22 15. "Primary care provider" means a physician who provides  
23 primary care who is a family or general practitioner, a  
24 pediatrician, an internist, an obstetrician, or a  
25 gynecologist.

26 Sec. 4. Section 252E.2, subsection 2, unnumbered paragraph  
27 1, Code 2001, is amended to read as follows:

28 An insurer who is subject to the federal Employee  
29 Retirement Income Security Act, as codified in 29 U.S.C. §  
30 1169, shall provide benefits in accordance with that section  
31 which meet the requirements of a qualified medical child  
32 support order. For the purposes of this subsection "qualified  
33 medical child support order" means and includes a medical  
34 child support order as defined in 29 U.S.C. § 1169, or a child  
35 support order which creates or recognizes the existence of a

1 child's right to, or assigns to a child the right to, receive  
2 benefits for which a participant or child is eligible under a  
3 group health plan or a notice of such an order issued by the  
4 child-support-recovery-unit department, and which specifies  
5 the following:

6 Sec. 5. Section 252E.4, subsection 1, Code 2001, is  
7 amended to read as follows:

8 1. When a support order requires an obligor to provide  
9 coverage under a health benefit plan, the district court or  
10 the department may enter an ex parte order directing an  
11 employer to take all actions necessary to enroll an obligor's  
12 dependent for coverage under a health benefit plan or may  
13 include the provisions in an ex parte income withholding order  
14 or notice of income withholding pursuant to chapter 252D. The  
15 child support recovery unit, where appropriate, shall issue a  
16 national medical support notice to an employer within two  
17 business days after the date information regarding a newly  
18 hired employee is entered into the centralized employee  
19 registry and matched with a noncustodial parent in the case  
20 being enforced by the unit. The department may amend the  
21 information in the ex parte order or may amend or terminate  
22 the national medical support notice regarding health insurance  
23 provisions if necessary to comply with health insurance  
24 requirements including but not limited to the provisions of  
25 section 252E.2, subsection 2, or to correct a mistake of fact.

26 Sec. 6. Section 252E.5, subsections 1 and 3, Code 2001,  
27 are amended to read as follows:

28 1. When the order has been forwarded to the obligor's  
29 employer pursuant to section 252E.4, the order is binding on  
30 the employer and the employer's insurer to the extent that the  
31 dependent is eligible to be enrolled in the plan under the  
32 applicable terms and conditions of the health benefit plan and  
33 the standard enrollment guidelines of the insurer. The  
34 employer shall allow enrollment of the dependent at any time,  
35 notwithstanding any enrollment season restrictions. If a

1 provision of this section conflicts with a provision in the  
2 national medical support notice, or in subsection 9, the  
3 provision in the notice and subsection 9 shall apply.

4 3. The employer shall withhold from the employee's  
5 compensation, the employee's share, if any, of premiums for  
6 the health benefit plan in an amount that does not exceed the  
7 amount specified in the national medical support notice or the  
8 amount specified in 15 U.S.C. § 1673(b) and which is  
9 consistent with federal law. The employer shall forward the  
10 amount withheld to the insurer.

11 Sec. 7. Section 252E.5, Code 2001, is amended by adding  
12 the following new subsection:

13 NEW SUBSECTION. 9. If the department issues a national  
14 medical support notice to an employer or plan administrator,  
15 all of the following shall apply:

16 a. The employer and plan administrator shall comply with  
17 the provisions in the notice.

18 b. The employer and the plan administrator shall treat the  
19 notice as an application by the department for health benefit  
20 plan coverage for the dependent to the extent such application  
21 is required by the health benefit plan.

22 c. If the obligor named in the notice is not an employee  
23 of the employer, or if a health benefit plan is not offered or  
24 available to the employee, the employer shall notify the  
25 department, as provided in the notice, within twenty business  
26 days after the date of the notice.

27 d. If a health benefit plan is offered or available to the  
28 employee, the employer shall send the plan administrator's  
29 portion of the notice to each appropriate plan administrator  
30 within twenty business days after the date of the notice.

31 e. Upon notification from the plan administrator that the  
32 dependent is enrolled, the employer shall either withhold and  
33 forward the premiums as provided in subsection 3, or shall  
34 notify the department that the enrollment cannot be completed  
35 due to limits established for withholding as provided in

1 subsection 3.

2 f. If the plan administrator notifies the employer that  
3 the obligor is subject to a waiting period that expires more  
4 than ninety days from the date of receipt of the notice by the  
5 plan administrator or that the obligor is subject to a waiting  
6 period that is measured in a manner other than the passage of  
7 time, the employer shall notify the plan administrator when  
8 the obligor becomes eligible to enroll in the plan and that  
9 the notice requires enrollment in the plan of the dependent  
10 named in the notice.

11 g. The plan administrator shall enroll the dependent, and  
12 if necessary to enrollment of the dependent shall also enroll  
13 the obligor, in the plan selected in accordance with this  
14 paragraph. All of the following shall apply to the selection  
15 of the plan:

16 (1) If the obligor is enrolled in a health benefit plan  
17 that offers dependent coverage, that plan shall be selected.

18 (2) If the obligor is not enrolled in a plan or is not  
19 enrolled in a plan that offers dependent coverage, and if only  
20 one plan with dependent coverage is offered by the employer,  
21 that plan shall be selected.

22 (3) If the obligor is not enrolled in a health benefit  
23 plan or is not enrolled in a health benefit plan that offers  
24 dependent coverage, if more than one plan with dependent  
25 coverage is offered by the employer, and if the notice is  
26 issued by the child support recovery unit, all of the  
27 following shall apply:

28 (a) If only one of the plans is accessible to the  
29 dependent, that plan shall be selected. If none of the plans  
30 with dependent coverage is accessible to the dependent, the  
31 unit shall amend or terminate the notice.

32 (b) If more than one of the plans is accessible to the  
33 dependent, the plan selected shall be the plan that provides  
34 basic coverage for which the employee's share of the premium  
35 is lowest.

1 (c) If more than one of the plans is accessible to the  
2 dependent but none of the accessible plans provides basic  
3 coverage, the plan selected shall be a plan that is accessible  
4 and for which the employee's share of the premium is lowest.

5 (d) If the employee's share of the premiums is the same  
6 under all plans described in subparagraphs (b) or (c), the  
7 unit shall attempt to consult with the obligee when selecting  
8 the plan. If the obligee does not respond within ten days of  
9 the unit's attempt, the unit shall select a plan which shall  
10 be the plan's default option, if any, or the plan with the  
11 lowest deductibles and copayment requirements.

12 (4) If the obligor is not enrolled in a health benefit  
13 plan or is not enrolled in a health benefit plan that offers  
14 dependent coverage, if more than one plan with dependent  
15 coverage is offered by the employer, and if the notice is  
16 issued by the child support enforcement agency of another  
17 state, that agency shall select the plan as provided in  
18 paragraph "h", subparagraph (3).

19 h. Within forty business days after the date of the  
20 notice, the plan administrator shall do all of the following  
21 as directed by the notice:

22 (1) Complete the appropriate portion of the notice and  
23 return the portion to the department.

24 (2) If the dependent is or is to be enrolled, notify the  
25 obligor, the obligee, and the child and furnish the obligee  
26 with necessary information. Provide the child support  
27 recovery unit with the type of health benefit plan under which  
28 the dependent has been enrolled, including whether dental,  
29 optical, office visits, and prescription drugs are covered  
30 services.

31 (3) If more than one health benefit plan is available to  
32 the obligor and the obligor is not enrolled, forward plan  
33 descriptions and documents to the department and enroll the  
34 dependent, and if necessary the obligor, in the plan selected  
35 by the department or in any default option if the plan

1 administrator has not received a selection from the department  
2 within twenty business days of the date the plan administrator  
3 returned the national medical support notice response to the  
4 department.

5 (4) If the obligor is subject to a waiting period that  
6 expires more than ninety days from the date of receipt of the  
7 notice by the plan administrator or if the obligor has not  
8 completed a waiting period that is measured in a manner other  
9 than the passage of time, notify the employer, the department,  
10 the obligor, and the obligee. Upon satisfaction of the period  
11 or requirement, complete the enrollment.

12 (5) Upon completion of the enrollment, notify the employer  
13 for a determination of whether the necessary employee share of  
14 the premium is available.

15 (6) If the plan administrator is subject to the federal  
16 Employee Retirement Income Security Act, as codified in 29  
17 U.S.C. § 1169, or is subject to the federal Child Support  
18 Performance and Incentive Act of 1998, Pub. L. No. 105-200, §  
19 401, subsection (e) or (f) and the plan administrator  
20 determines the notice does not constitute a qualified medical  
21 child support order, complete and send the response to the  
22 department and notify the obligor, the obligee, and the child  
23 of the specific reason for the determination.

24 Sec. 8. Section 252E.6, subsection 2, Code 2001, is  
25 amended to read as follows:

26 2. For cases for which services are being provided  
27 pursuant to chapter 252B, the department shall notify the  
28 employer when there is no longer a current order for medical  
29 support in effect for which the department is responsible.  
30 However, termination of an-obligee's medical support ordered  
31 pursuant to section 252E.3 shall be governed by the insurer's  
32 health benefit plan provisions for termination and by  
33 applicable federal law.

34 Sec. 9. Section 252E.6A, Code 2001, is amended to read as  
35 follows:

1 252E.6A MOTION TO QUASH.

2 1. An obligor may move to quash the order to the employer  
3 under section 252E.4 by following the same procedures and  
4 alleging a mistake of a fact as provided in section 252D.31 or  
5 as provided in subsection 2. If the unit is enforcing an  
6 income withholding order and a medical support order  
7 simultaneously, any challenge to the income withholding order  
8 and medical support enforcement shall be filed and heard  
9 simultaneously.

10 2. The obligor may allege as a mistake of fact an error in  
11 the availability of dependent coverage under the health  
12 benefit plan because the coverage is not accessible to the  
13 dependent. Even if the plan is not accessible as defined in  
14 section 252E.1, the court may determine that the plan is  
15 substantially accessible if the obligee demonstrates that the  
16 dependent may receive a benefit under the plan. Section  
17 252K.316 relating to evidence and procedure shall apply to the  
18 court proceeding.

19 ~~2.~~ 3. The employer shall comply with the requirements of  
20 this chapter until the employer receives notice that a motion  
21 to quash has been granted, or that the unit has amended or  
22 terminated the national medical support notice.

23 Sec. 10. Section 252H.2, subsection 12, Code 2001, is  
24 amended to read as follows:

25 12. "State" means "state" as defined in section 252A-2  
26 252K.101.

27 Sec. 11. Section 252H.3, subsection 1, Code 2001, is  
28 amended to read as follows:

29 1. Any action initiated under this chapter, including any  
30 court hearing resulting from an action, shall be limited in  
31 scope to the adjustment or modification of the child or  
32 medical support or cost-of-living alteration of the child  
33 support provisions of a support order. A determination of a  
34 controlling order is within the scope of this chapter. If the  
35 social security disability provisions of sections 598.22 and

1 598.22C apply, a determination of the amount of delinquent  
2 support due is within the scope of this chapter.

3 Sec. 12. Section 252H.8, subsection 4, paragraph g, Code  
4 2001, is amended to read as follows:

5 g. Copies of any computation worksheet prepared by the  
6 unit to determine the amount of support calculated using the  
7 mandatory child support guidelines established under section  
8 598.21, subsection 4, and, if appropriate and the social  
9 security disability provisions of sections 598.22 and 598.22C  
10 apply, a determination of the amount of delinquent support  
11 due.

12 Sec. 13. Section 252H.9, subsection 3, Code 2001, is  
13 amended by adding the following new paragraph:

14 NEW PARAGRAPH. h. If applicable, the amount of delinquent  
15 support due based upon the receipt of social security  
16 disability payments as provided in sections 598.22 and  
17 598.22C.

18 Sec. 14. Section 252H.16, subsection 1, Code 2001, is  
19 amended to read as follows:

20 1. The unit shall conduct the review and determine whether  
21 an adjustment is appropriate. As necessary, the unit shall  
22 make a determination of the controlling order or the amount of  
23 delinquent support due based upon the receipt of social  
24 security disability payments as provided in sections 598.22  
25 and 598.22C.

26 Sec. 15. Section 252H.22, Code 2001, is amended by adding  
27 the following new subsection:

28 NEW SUBSECTION. 6. The support order is not subject to  
29 the social security disability provisions pursuant to sections  
30 598.22 and 598.22C.

31 Sec. 16. Section 598.21, subsection 4, Code Supplement  
32 2001, is amended by adding the following new paragraph:

33 NEW PARAGRAPH. f. For the purposes of including a child's  
34 dependent benefit in calculating a support obligation under  
35 this section for a child whose parent has been awarded

1 disability benefits under the federal Social Security Act, the  
2 provisions of section 598.22C shall apply.

3 Sec. 17. Section 598.22, unnumbered paragraph 1, Code  
4 2001, is amended to read as follows:

5 Except as otherwise provided in section 598.22A, this  
6 section applies to all initial or modified orders for support  
7 entered under this chapter, chapter 234, 252A, 252C, 252F,  
8 600B, or any other chapter of the Code. All orders or  
9 judgments entered under chapter 234, 252A, 252C, 252F, or  
10 600B, or under this chapter or any other chapter which provide  
11 for temporary or permanent support payments shall direct the  
12 payment of those sums to the clerk of the district court or  
13 the collection services center in accordance with section  
14 252B.14 for the use of the person for whom the payments have  
15 been awarded. Beginning October 1, 1999, all income  
16 withholding payments shall be directed to the collection  
17 services center. Payments to persons other than the clerk of  
18 the district court and the collection services center do not  
19 satisfy the support obligations created by the orders or  
20 judgments, except as provided for trusts governed by the  
21 federal Retirement Equity Act of 1984, Pub. L. No. 98-397, for  
22 tax refunds or rebates in section 602.8102, subsection 47, or  
23 for dependent benefits paid to the child support obligee as  
24 the result of disability benefits awarded to the child support  
25 obligor under the federal Social Security Act. For trusts  
26 governed by the federal Retirement Equity Act of 1984, Pub. L.  
27 No. 98-397, the order for income withholding or notice of the  
28 order for income withholding shall require the payment of such  
29 sums to the alternate payee in accordance with the federal  
30 Act. For dependent benefits paid to the child support obligee  
31 as a result of disability benefits awarded to the child  
32 support obligor under the federal Social Security Act, the  
33 provisions of section 598.22C shall apply.

34 Sec. 18. NEW SECTION. 598.22C CHILD SUPPORT -- SOCIAL  
35 SECURITY DISABILITY DEPENDENT BENEFITS.

1 If dependent benefits are paid for a child as a result of  
2 disability benefits awarded to the child's parent under the  
3 federal Social Security Act, all of the following shall apply:

4 1. Unless the court otherwise provides, dependent benefits  
5 paid to the child support obligee as a result of disability  
6 benefits awarded to the child support obligor fully satisfy  
7 and substitute for the support obligations for the same period  
8 of time for which the benefits are awarded.

9 2. For the purposes of calculating a support obligation  
10 under section 598.21, subsection 4, the dependent benefits  
11 paid for any child shall be included as income to the disabled  
12 parent.

13 3. a. Any order or judgment for support for a child for  
14 whom social security disability benefits are paid to the child  
15 support obligee as a result of disability benefits awarded to  
16 the child support obligor shall include all of the following:

17 (1) The dollar amount of the child support obligation as  
18 calculated by application of the guidelines under section  
19 598.21, subsection 4, and a statement that the social security  
20 dependent benefits are included as income to the obligor in  
21 that calculation.

22 (2) The dollar amount of the social security dependent  
23 benefits paid to the obligee which shall be dollar-for-dollar  
24 satisfaction of the obligor's child support obligation.

25 (3) The dollar amount, if any, the obligor shall pay after  
26 application of the social security dependent benefits as a  
27 credit to or dollar-for-dollar satisfaction of the child  
28 support obligation.

29 b. The amount of the child support obligation stated in  
30 the order, and the amount the obligor shall pay after  
31 application of the social security disability dependent  
32 benefit credit or satisfaction stated in the order, shall  
33 continue until modified, as provided in section 598.21.

34 4. The amount of any child support obligation satisfied  
35 under this section based upon the receipt of dependent

1 benefits paid to the child support obligee as a result of  
2 disability benefits awarded to the child support obligor shall  
3 not be considered delinquent.

4 Sec. 19. Section 600.11, subsection 2, Code 2001, is  
5 amended by adding the following new paragraph:

6 NEW PARAGRAPH. f. A person who is ordered to pay support  
7 or a postsecondary education subsidy pursuant to chapter 234,  
8 252A, 252C, 252F, 598, 600B, or any other chapter of the Code,  
9 for a person eighteen year of age or older who is being  
10 adopted by a stepparent, and the support order or order  
11 requires payment of support or postsecondary education subsidy  
12 for any period of time after the child reaches eighteen years  
13 of age.

14 EXPLANATION

15 This bill makes changes in the law relating to child  
16 support including those relating to medical support and the  
17 calculation of the child support amount relative to receipt by  
18 a parent of federal social security disability benefits.

19 The bill amends Code chapter 252E, relating to medical  
20 support, to reflect federal requirements for use of a national  
21 medical support notice. The bill provides definitions,  
22 provides directives to employers and to health benefit plan  
23 administrators in complying with the medical support notice,  
24 and provides criteria and a procedure to be used in the  
25 selection of a health benefit plan in order to comply with the  
26 medical support notice. The bill also makes conforming  
27 changes in Code chapter 252D, relating to income withholding,  
28 to reflect the changes relating to the medical support notice.

29 The bill also amends Code chapter 252H, relating to the  
30 adjustment and modification of support orders, and Code  
31 chapter 598, relating to dissolution of marriage and domestic  
32 relations, to reflect the decision of the Iowa Supreme Court  
33 in In re Marriage of Hilmo, 623 N.W.2d 809, relating to the  
34 effect of receipt of social security disability (SSD) payments  
35 on the calculation of the child support amount owed and

1 payment of the obligation. In Hilmo, the court held that if a  
2 child receives SSD benefits as the result of a parent's  
3 disability, the payment amount is to be included as income to  
4 the parent when calculating the amount of child support.  
5 After calculating the amount of child support, if the disabled  
6 parent is the obligor, the obligor's support obligation is  
7 then to be credited, dollar for dollar, in the amount of the  
8 SSD payment made to the dependent, with any remaining  
9 obligation amount to be paid by the obligor. Currently, if a  
10 child receives SSD benefits as the result of the obligor's  
11 disability, notwithstanding the amount of the child support  
12 obligation calculated under the child support guidelines, the  
13 SSD payment to the dependent is considered payment in full of  
14 the obligation.

15 The bill amends Code chapter 252H to allow for a  
16 determination of the amount of delinquent support due as part  
17 of an administrative adjustment or modification of a support  
18 order if the order involves receipt of SSD payments. The bill  
19 amends Code chapter 598 to provide that unless the court  
20 otherwise provides, dependent benefits paid to a child support  
21 obligee as a result of SSD benefits awarded to an obligor are  
22 to fully satisfy and substitute for the support obligation for  
23 the same period of time for which benefits are awarded. The  
24 bill also provides that the SSD dependent benefit payment  
25 amount is to be included as income to the disabled parent when  
26 calculating the child support obligation amount. Under the  
27 bill, an order or judgment for support for a child for whom  
28 SSD dependent benefit payments are paid to the child support  
29 obligee is to include all of the following: a statement of  
30 the dollar amount of the child support obligation as  
31 calculated under the child support guidelines and that the SSD  
32 dependent benefit payment amount was included as income to the  
33 obligor in calculation of the child support obligation amount;  
34 the dollar amount of the SSD dependent benefit payment made to  
35 the obligee which is to satisfy the obligation amount on a

1 dollar-for-dollar basis; and the dollar amount, if any, that  
2 the obligor is to pay following application of the SSD  
3 dependent benefit payment amount to the obligation amount.  
4 The bill also provides that the amount of the child support  
5 obligation satisfied by the application of the SSD dependent  
6 benefit payment to the obligation amount is not to be  
7 considered delinquent.

8 The bill makes a technical correction relating to a  
9 definitional reference to the word "state" in Code section  
10 252H.2.

11 The bill also provides that notice of an adoption hearing  
12 is to be provided to a person who is ordered to pay support or  
13 a postsecondary education subsidy for a person 18 years of age  
14 or older who is being adopted by a stepparent, and the support  
15 order requires payment of support or a postsecondary education  
16 subsidy for any period of time after the child reaches 18  
17 years of age.

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## HOUSE FILE 2395

H-8077

1 Amend House File 2395 as follows:

2 1. Page 11, by inserting after line 2, the  
3 following:

4 "Sec. 100. Section 598.21, subsection 5A, Code  
5 Supplement 2001, is amended by adding the following  
6 new paragraph:

7 NEW PARAGRAPH. e. A support order, decree, or  
8 judgment entered or pending before July 1, 1997, that  
9 provides for support of a child for college,  
10 university, or community college expenses, may be  
11 modified in accordance with this subsection."

12 2. Page 13, line 7, by inserting after the word  
13 "to" the following: "section 598.21, subsection 5A,  
14 or".

15 3. Page 13, by inserting after line 13, the  
16 following:

17 "Sec. \_\_\_\_ . EFFECTIVE DATE AND RETROACTIVE  
18 APPLICABILITY PROVISION. Section 100 of this Act,  
19 relating to the modification of a support order,  
20 decree, or judgment pending on or before July 1, 1997,  
21 that provides for support of a child for college,  
22 university, or community college expenses, being  
23 deemed of immediate importance, takes effect upon  
24 enactment and is retroactively applicable to support  
25 orders, decrees, or judgments as described in section  
26 100 of this Act entered or pending before July 1,  
27 1997."

28 4. Title page, line 4, by inserting after the  
29 word "benefits" the following: ", providing an  
30 effective date, and providing for retroactive  
31 applicability".

32 5. By renumbering as necessary.

By MILLAGE of Scott

H-8077 FILED FEBRUARY 20, 2002

*Adopted*  
*3/4/02*  
*(P. 577)*

2395

HOUSE FILE 2395  
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 622)

(As Amended and Passed by the House March 4, 2002)

Passed House, Date \_\_\_\_\_ Passed Senate, <sup>(P.520)</sup> Date 3-6-02  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes 47 Nays 0  
Approved March 15, 2002

**A BILL FOR**

1 An Act relating to child support including provisions relating to  
2 medical support and the calculation of the child support  
3 amount relative to receipt of federal social security  
4 benefits, providing an effective date, and providing for  
5 retroactive applicability.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments \_\_\_\_\_

1 Section 1. Section 252D.18A, subsection 1, Code 2001, is  
2 amended to read as follows:

3 1. The total of all amounts withheld shall not exceed the  
4 amounts specified in 15 U.S.C. § 1673(b). For orders or  
5 notices issued by the child support recovery unit, the limit  
6 for the amount to be withheld shall be specified in the order  
7 or notice.

8 Sec. 2. Section 252D.18A, subsection 3, paragraph b, Code  
9 2001, is amended to read as follows:

10 b. If, after completing the calculation in paragraph "a",  
11 the withholding limit specified under ~~15-U.S.C.-§-1673(b)~~  
12 subsection 1 has not been attained, the payor shall total the  
13 amounts due for arrearages and determine the proportionate  
14 share for each obligee. The proportionate share amounts shall  
15 be established utilizing the procedures established in  
16 paragraph "a" for current support obligations.

17 Sec. 3. Section 252E.1, Code 2001, is amended to read as  
18 follows:

19 252E.1 DEFINITIONS.

20 As used in this chapter, unless the context otherwise  
21 requires:

22 1. "Accessible" means any of the following, unless  
23 otherwise provided in the support order:

24 a. The health benefit plan does not have service area  
25 limitations or provides an option not subject to service area  
26 limitations.

27 b. The health benefit plan has service area limitations  
28 and the dependent lives within thirty miles or thirty minutes  
29 of a network primary care provider.

30 2. "Basic coverage" means coverage provided under a health  
31 benefit plan that at a minimum provides coverage for emergency  
32 care, inpatient and outpatient hospital care, physician  
33 services whether provided within or outside a hospital  
34 setting, and laboratory and x-ray services.

35 ~~1-~~ 3. "Child" means a person for whom child or medical

1 support may be ordered pursuant to chapter 234, 239B, 252A,  
2 252C, 252F, 252H, 252K, 598, 600B or any other chapter of the  
3 Code or pursuant to a comparable statute of a foreign  
4 jurisdiction.

5 ~~2-~~ 4. "Department" means the department of human services,  
6 which includes but is not limited to the child support  
7 recovery unit, or any comparable support enforcement agency of  
8 another state.

9 ~~3-~~ 5. "Dependent" means a child, or an obligee for whom a  
10 court may order coverage by a health benefit plan pursuant to  
11 section 252E.3.

12 ~~4-~~ 6. "Enroll" means to be eligible for and covered by a  
13 health benefit plan.

14 ~~5-~~ 7. "Health benefit plan" means any policy or contract  
15 of insurance, indemnity, subscription or membership issued by  
16 an insurer, health service corporation, health maintenance  
17 organization, or any similar corporation, organization, or a  
18 self-insured employee benefit plan, for the purpose of  
19 covering medical expenses. These expenses may include, but  
20 are not limited to hospital, surgical, major medical  
21 insurance, dental, optical, prescription drugs, office visits,  
22 or any combination of these or any other comparable health  
23 care expenses.

24 ~~6-~~ 8. "Insurer" means any entity which provides a health  
25 benefit plan.

26 ~~7-~~ 9. "Medical support" means either the provision of a  
27 health benefit plan, including a group or employment-related  
28 or an individual health benefit plan, or a health benefit plan  
29 provided pursuant to chapter 514E, to meet the medical needs  
30 of a dependent and the cost of any premium required by a  
31 health benefit plan, or the payment to the obligee of a  
32 monetary amount in lieu of a health benefit plan, either of  
33 which is an obligation separate from any monetary amount of  
34 child support ordered to be paid. Medical support is not  
35 alimony.

1 10. "National medical support notice" means a notice as  
2 prescribed under 42 U.S.C. § 666(a)(19) or a substantially  
3 similar notice, that is issued and forwarded by the department  
4 to enforce medical support provisions of a support order.

5 8- 11. "Obligee" means a parent or another natural person  
6 legally entitled to receive a support payment on behalf of a  
7 child.

8 9- 12. "Obligor" means a parent or another natural person  
9 legally responsible for the support of a dependent.

10 ~~10-~~ 13. "Order" means a support order entered pursuant to  
11 chapter 234, 252A, 252C, 252F, 252H, 252K, 598, 600B, or any  
12 other support chapter, or pursuant to a comparable statute of  
13 a foreign jurisdiction, or an ex parte order entered pursuant  
14 to section 252E.4. "Order" also includes a notice of such an  
15 order issued by the child-support-recovery-unit-to-an-employer  
16 department.

17 14. "Plan administrator" means the employer or sponsor  
18 that offers the health benefit plan or the person to whom the  
19 duty of plan administrator is delegated by the employer or  
20 sponsor offering the health benefit plan, by written agreement  
21 of the parties.

22 15. "Primary care provider" means a physician who provides  
23 primary care who is a family or general practitioner, a  
24 pediatrician, an internist, an obstetrician, or a  
25 gynecologist.

26 Sec. 4. Section 252E.2, subsection 2, unnumbered paragraph  
27 1, Code 2001, is amended to read as follows:

28 An insurer who is subject to the federal Employee  
29 Retirement Income Security Act, as codified in 29 U.S.C. §  
30 1169, shall provide benefits in accordance with that section  
31 which meet the requirements of a qualified medical child  
32 support order. For the purposes of this subsection "qualified  
33 medical child support order" means and includes a medical  
34 child support order as defined in 29 U.S.C. § 1169, or a child  
35 support order which creates or recognizes the existence of a

1 child's right to, or assigns to a child the right to, receive  
2 benefits for which a participant or child is eligible under a  
3 group health plan or a notice of such an order issued by the  
4 child-support-recovery-unit department, and which specifies  
5 the following:

6 Sec. 5. Section 252E.4, subsection 1, Code 2001, is  
7 amended to read as follows:

8 1. When a support order requires an obligor to provide  
9 coverage under a health benefit plan, the district court or  
10 the department may enter an ex parte order directing an  
11 employer to take all actions necessary to enroll an obligor's  
12 dependent for coverage under a health benefit plan or may  
13 include the provisions in an ex parte income withholding order  
14 or notice of income withholding pursuant to chapter 252D. The  
15 child support recovery unit, where appropriate, shall issue a  
16 national medical support notice to an employer within two  
17 business days after the date information regarding a newly  
18 hired employee is entered into the centralized employee  
19 registry and matched with a noncustodial parent in the case  
20 being enforced by the unit. The department may amend the  
21 information in the ex parte order or may amend or terminate  
22 the national medical support notice regarding health insurance  
23 provisions if necessary to comply with health insurance  
24 requirements including but not limited to the provisions of  
25 section 252E.2, subsection 2, or to correct a mistake of fact.

26 Sec. 6. Section 252E.5, subsections 1 and 3, Code 2001,  
27 are amended to read as follows:

28 1. When the order has been forwarded to the obligor's  
29 employer pursuant to section 252E.4, the order is binding on  
30 the employer and the employer's insurer to the extent that the  
31 dependent is eligible to be enrolled in the plan under the  
32 applicable terms and conditions of the health benefit plan and  
33 the standard enrollment guidelines of the insurer. The  
34 employer shall allow enrollment of the dependent at any time,  
35 notwithstanding any enrollment season restrictions. If a

1 provision of this section conflicts with a provision in the  
2 national medical support notice, or in subsection 9, the  
3 provision in the notice and subsection 9 shall apply.

4 3. The employer shall withhold from the employee's  
5 compensation, the employee's share, if any, of premiums for  
6 the health benefit plan in an amount that does not exceed the  
7 amount specified in the national medical support notice or the  
8 amount specified in 15 U.S.C. § 1673(b) and which is  
9 consistent with federal law. The employer shall forward the  
10 amount withheld to the insurer.

11 Sec. 7. Section 252E.5, Code 2001, is amended by adding  
12 the following new subsection:

13 NEW SUBSECTION. 9. If the department issues a national  
14 medical support notice to an employer or plan administrator,  
15 all of the following shall apply:

16 a. The employer and plan administrator shall comply with  
17 the provisions in the notice.

18 b. The employer and the plan administrator shall treat the  
19 notice as an application by the department for health benefit  
20 plan coverage for the dependent to the extent such application  
21 is required by the health benefit plan.

22 c. If the obligor named in the notice is not an employee  
23 of the employer, or if a health benefit plan is not offered or  
24 available to the employee, the employer shall notify the  
25 department, as provided in the notice, within twenty business  
26 days after the date of the notice.

27 d. If a health benefit plan is offered or available to the  
28 employee, the employer shall send the plan administrator's  
29 portion of the notice to each appropriate plan administrator  
30 within twenty business days after the date of the notice.

31 e. Upon notification from the plan administrator that the  
32 dependent is enrolled, the employer shall either withhold and  
33 forward the premiums as provided in subsection 3, or shall  
34 notify the department that the enrollment cannot be completed  
35 due to limits established for withholding as provided in

1 subsection 3.

2 f. If the plan administrator notifies the employer that  
3 the obligor is subject to a waiting period that expires more  
4 than ninety days from the date of receipt of the notice by the  
5 plan administrator or that the obligor is subject to a waiting  
6 period that is measured in a manner other than the passage of  
7 time, the employer shall notify the plan administrator when  
8 the obligor becomes eligible to enroll in the plan and that  
9 the notice requires enrollment in the plan of the dependent  
10 named in the notice.

11 g. The plan administrator shall enroll the dependent, and  
12 if necessary to enrollment of the dependent shall also enroll  
13 the obligor, in the plan selected in accordance with this  
14 paragraph. All of the following shall apply to the selection  
15 of the plan:

16 (1) If the obligor is enrolled in a health benefit plan  
17 that offers dependent coverage, that plan shall be selected.

18 (2) If the obligor is not enrolled in a plan or is not  
19 enrolled in a plan that offers dependent coverage, and if only  
20 one plan with dependent coverage is offered by the employer,  
21 that plan shall be selected.

22 (3) If the obligor is not enrolled in a health benefit  
23 plan or is not enrolled in a health benefit plan that offers  
24 dependent coverage, if more than one plan with dependent  
25 coverage is offered by the employer, and if the notice is  
26 issued by the child support recovery unit, all of the  
27 following shall apply:

28 (a) If only one of the plans is accessible to the  
29 dependent, that plan shall be selected. If none of the plans  
30 with dependent coverage is accessible to the dependent, the  
31 unit shall amend or terminate the notice.

32 (b) If more than one of the plans is accessible to the  
33 dependent, the plan selected shall be the plan that provides  
34 basic coverage for which the employee's share of the premium  
35 is lowest.

1 (c) If more than one of the plans is accessible to the  
2 dependent but none of the accessible plans provides basic  
3 coverage, the plan selected shall be a plan that is accessible  
4 and for which the employee's share of the premium is lowest.

5 (d) If the employee's share of the premiums is the same  
6 under all plans described in subparagraphs (b) or (c), the  
7 unit shall attempt to consult with the obligee when selecting  
8 the plan. If the obligee does not respond within ten days of  
9 the unit's attempt, the unit shall select a plan which shall  
10 be the plan's default option, if any, or the plan with the  
11 lowest deductibles and copayment requirements.

12 (4) If the obligor is not enrolled in a health benefit  
13 plan or is not enrolled in a health benefit plan that offers  
14 dependent coverage, if more than one plan with dependent  
15 coverage is offered by the employer, and if the notice is  
16 issued by the child support enforcement agency of another  
17 state, that agency shall select the plan as provided in  
18 paragraph "h", subparagraph (3).

19 h. Within forty business days after the date of the  
20 notice, the plan administrator shall do all of the following  
21 as directed by the notice:

22 (1) Complete the appropriate portion of the notice and  
23 return the portion to the department.

24 (2) If the dependent is or is to be enrolled, notify the  
25 obligor, the obligee, and the child and furnish the obligee  
26 with necessary information. Provide the child support  
27 recovery unit with the type of health benefit plan under which  
28 the dependent has been enrolled, including whether dental,  
29 optical, office visits, and prescription drugs are covered  
30 services.

31 (3) If more than one health benefit plan is available to  
32 the obligor and the obligor is not enrolled, forward plan  
33 descriptions and documents to the department and enroll the  
34 dependent, and if necessary the obligor, in the plan selected  
35 by the department or in any default option if the plan

1 administrator has not received a selection from the department  
2 within twenty business days of the date the plan administrator  
3 returned the national medical support notice response to the  
4 department.

5 (4) If the obligor is subject to a waiting period that  
6 expires more than ninety days from the date of receipt of the  
7 notice by the plan administrator or if the obligor has not  
8 completed a waiting period that is measured in a manner other  
9 than the passage of time, notify the employer, the department,  
10 the obligor, and the obligee. Upon satisfaction of the period  
11 or requirement, complete the enrollment.

12 (5) Upon completion of the enrollment, notify the employer  
13 for a determination of whether the necessary employee share of  
14 the premium is available.

15 (6) If the plan administrator is subject to the federal  
16 Employee Retirement Income Security Act, as codified in 29  
17 U.S.C. § 1169, or is subject to the federal Child Support  
18 Performance and Incentive Act of 1998, Pub. L. No. 105-200, §  
19 401, subsection (e) or (f) and the plan administrator  
20 determines the notice does not constitute a qualified medical  
21 child support order, complete and send the response to the  
22 department and notify the obligor, the obligee, and the child  
23 of the specific reason for the determination.

24 Sec. 8. Section 252E.6, subsection 2, Code 2001, is  
25 amended to read as follows:

26 2. For cases for which services are being provided  
27 pursuant to chapter 252B, the department shall notify the  
28 employer when there is no longer a current order for medical  
29 support in effect for which the department is responsible.  
30 However, termination of ~~an-obligee's~~ medical support ordered  
31 pursuant to section 252E.3 shall be governed by the insurer's  
32 health benefit plan provisions for termination and by  
33 applicable federal law.

34 Sec. 9. Section 252E.6A, Code 2001, is amended to read as  
35 follows:

1 252E.6A MOTION TO QUASH.

2 1. An obligor may move to quash the order to the employer  
3 under section 252E.4 by following the same procedures and  
4 alleging a mistake of a fact as provided in section 252D.31 or  
5 as provided in subsection 2. If the unit is enforcing an  
6 income withholding order and a medical support order  
7 simultaneously, any challenge to the income withholding order  
8 and medical support enforcement shall be filed and heard  
9 simultaneously.

10 2. The obligor may allege as a mistake of fact an error in  
11 the availability of dependent coverage under the health  
12 benefit plan because the coverage is not accessible to the  
13 dependent. Even if the plan is not accessible as defined in  
14 section 252E.1, the court may determine that the plan is  
15 substantially accessible if the obligee demonstrates that the  
16 dependent may receive a benefit under the plan. Section  
17 252K.316 relating to evidence and procedure shall apply to the  
18 court proceeding.

19 ~~2-~~ 3. The employer shall comply with the requirements of  
20 this chapter until the employer receives notice that a motion  
21 to quash has been granted, or that the unit has amended or  
22 terminated the national medical support notice.

23 Sec. 10. Section 252H.2, subsection 12, Code 2001, is  
24 amended to read as follows:

25 12. "State" means "state" as defined in section ~~252A-2~~  
26 252K.101.

27 Sec. 11. Section 252H.3, subsection 1, Code 2001, is  
28 amended to read as follows:

29 1. Any action initiated under this chapter, including any  
30 court hearing resulting from an action, shall be limited in  
31 scope to the adjustment or modification of the child or  
32 medical support or cost-of-living alteration of the child  
33 support provisions of a support order. A determination of a  
34 controlling order is within the scope of this chapter. If the  
35 social security disability provisions of sections 598.22 and

1 598.22C apply, a determination of the amount of delinquent  
2 support due is within the scope of this chapter.

3 Sec. 12. Section 252H.8, subsection 4, paragraph g, Code  
4 2001, is amended to read as follows:

5 g. Copies of any computation worksheet prepared by the  
6 unit to determine the amount of support calculated using the  
7 mandatory child support guidelines established under section  
8 598.21, subsection 4, and, if appropriate and the social  
9 security disability provisions of sections 598.22 and 598.22C  
10 apply, a determination of the amount of delinquent support  
11 due.

12 Sec. 13. Section 252H.9, subsection 3, Code 2001, is  
13 amended by adding the following new paragraph:

14 NEW PARAGRAPH. h. If applicable, the amount of delinquent  
15 support due based upon the receipt of social security  
16 disability payments as provided in sections 598.22 and  
17 598.22C.

18 Sec. 14. Section 252H.16, subsection 1, Code 2001, is  
19 amended to read as follows:

20 1. The unit shall conduct the review and determine whether  
21 an adjustment is appropriate. As necessary, the unit shall  
22 make a determination of the controlling order or the amount of  
23 delinquent support due based upon the receipt of social  
24 security disability payments as provided in sections 598.22  
25 and 598.22C.

26 Sec. 15. Section 252H.22, Code 2001, is amended by adding  
27 the following new subsection:

28 NEW SUBSECTION. 6. The support order is not subject to  
29 the social security disability provisions pursuant to sections  
30 598.22 and 598.22C.

31 Sec. 16. Section 598.21, subsection 4, Code Supplement  
32 2001, is amended by adding the following new paragraph:

33 NEW PARAGRAPH. f. For the purposes of including a child's  
34 dependent benefit in calculating a support obligation under  
35 this section for a child whose parent has been awarded

1 disability benefits under the federal Social Security Act, the  
2 provisions of section 598.22C shall apply.

3 Sec. 17. Section 598.21, subsection 5A, Code Supplement  
4 2001, is amended by adding the following new paragraph:

5 NEW PARAGRAPH. e. A support order, decree, or judgment  
6 entered or pending before July 1, 1997, that provides for  
7 support of a child for college, university, or community  
8 college expenses, may be modified in accordance with this  
9 subsection.

10 Sec. 18. Section 598.22, unnumbered paragraph 1, Code  
11 2001, is amended to read as follows:

12 Except as otherwise provided in section 598.22A, this  
13 section applies to all initial or modified orders for support  
14 entered under this chapter, chapter 234, 252A, 252C, 252F,  
15 600B, or any other chapter of the Code. All orders or  
16 judgments entered under chapter 234, 252A, 252C, 252F, or  
17 600B, or under this chapter or any other chapter which provide  
18 for temporary or permanent support payments shall direct the  
19 payment of those sums to the clerk of the district court or  
20 the collection services center in accordance with section  
21 252B.14 for the use of the person for whom the payments have  
22 been awarded. Beginning October 1, 1999, all income  
23 withholding payments shall be directed to the collection  
24 services center. Payments to persons other than the clerk of  
25 the district court and the collection services center do not  
26 satisfy the support obligations created by the orders or  
27 judgments, except as provided for trusts governed by the  
28 federal Retirement Equity Act of 1984, Pub. L. No. 98-397, for  
29 tax refunds or rebates in section 602.8102, subsection 47, or  
30 for dependent benefits paid to the child support obligee as  
31 the result of disability benefits awarded to the child support  
32 obligor under the federal Social Security Act. For trusts  
33 governed by the federal Retirement Equity Act of 1984, Pub. L.  
34 No. 98-397, the order for income withholding or notice of the  
35 order for income withholding shall require the payment of such

1 sums to the alternate payee in accordance with the federal  
2 Act. For dependent benefits paid to the child support obligee  
3 as a result of disability benefits awarded to the child  
4 support obligor under the federal Social Security Act, the  
5 provisions of section 598.22C shall apply.

6 Sec. 19. NEW SECTION. 598.22C CHILD SUPPORT -- SOCIAL  
7 SECURITY DISABILITY DEPENDENT BENEFITS.

8 If dependent benefits are paid for a child as a result of  
9 disability benefits awarded to the child's parent under the  
10 federal Social Security Act, all of the following shall apply:

11 1. Unless the court otherwise provides, dependent benefits  
12 paid to the child support obligee as a result of disability  
13 benefits awarded to the child support obligor fully satisfy  
14 and substitute for the support obligations for the same period  
15 of time for which the benefits are awarded.

16 2. For the purposes of calculating a support obligation  
17 under section 598.21, subsection 4, the dependent benefits  
18 paid for any child shall be included as income to the disabled  
19 parent.

20 3. a. Any order or judgment for support for a child for  
21 whom social security disability benefits are paid to the child  
22 support obligee as a result of disability benefits awarded to  
23 the child support obligor shall include all of the following:

24 (1) The dollar amount of the child support obligation as  
25 calculated by application of the guidelines under section  
26 598.21, subsection 4, and a statement that the social security  
27 dependent benefits are included as income to the obligor in  
28 that calculation.

29 (2) The dollar amount of the social security dependent  
30 benefits paid to the obligee which shall be dollar-for-dollar  
31 satisfaction of the obligor's child support obligation.

32 (3) The dollar amount, if any, the obligor shall pay after  
33 application of the social security dependent benefits as a  
34 credit to or dollar-for-dollar satisfaction of the child  
35 support obligation.

1 b. The amount of the child support obligation stated in  
2 the order, and the amount the obligor shall pay after  
3 application of the social security disability dependent  
4 benefit credit or satisfaction stated in the order, shall  
5 continue until modified, as provided in section 598.21.

6 4. The amount of any child support obligation satisfied  
7 under this section based upon the receipt of dependent  
8 benefits paid to the child support obligee as a result of  
9 disability benefits awarded to the child support obligor shall  
10 not be considered delinquent.

11 Sec. 20. Section 600.11, subsection 2, Code 2001, is  
12 amended by adding the following new paragraph:

13 NEW PARAGRAPH. f. A person who is ordered to pay support  
14 or a postsecondary education subsidy pursuant to section  
15 598.21, subsection 5A, or chapter 234, 252A, 252C, 252F, 598,  
16 600B, or any other chapter of the Code, for a person eighteen  
17 year of age or older who is being adopted by a stepparent, and  
18 the support order or order requires payment of support or  
19 postsecondary education subsidy for any period of time after  
20 the child reaches eighteen years of age.

21 Sec. 21. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY  
22 PROVISION. Section 17 of this Act, relating to the  
23 modification of a support order, decree, or judgment pending  
24 on or before July 1, 1997, that provides for support of a  
25 child for college, university, or community college expenses,  
26 being deemed of immediate importance, takes effect upon  
27 enactment and is retroactively applicable to support orders,  
28 decrees, or judgments as described in section 17 of this Act  
29 entered or pending before July 1, 1997.

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HOUSE FILE 2395

AN ACT

RELATING TO CHILD SUPPORT INCLUDING PROVISIONS RELATING TO MEDICAL SUPPORT AND THE CALCULATION OF THE CHILD SUPPORT AMOUNT RELATIVE TO RECEIPT OF FEDERAL SOCIAL SECURITY BENEFITS, PROVIDING AN EFFECTIVE DATE, AND PROVIDING FOR RETROACTIVE APPLICABILITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 252D.18A, subsection 1, Code 2001, is amended to read as follows:

1. The total of all amounts withheld shall not exceed the amounts specified in 15 U.S.C. § 1673(b). For orders or notices issued by the child support recovery unit, the limit for the amount to be withheld shall be specified in the order or notice.

Sec. 2. Section 252D.18A, subsection 3, paragraph b, Code 2001, is amended to read as follows:

b. If, after completing the calculation in paragraph "a", the withholding limit specified under ~~15-U-S-C-1673(b)~~ subsection 1 has not been attained, the payor shall total the amounts due for arrearages and determine the proportionate share for each obligee. The proportionate share amounts shall be established utilizing the procedures established in paragraph "a" for current support obligations.

Sec. 3. Section 252E.1, Code 2001, is amended to read as follows:

252E.1 DEFINITIONS.

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

1. "Accessible" means any of the following, unless otherwise provided in the support order:

a. The health benefit plan does not have service area limitations or provides an option not subject to service area limitations.

b. The health benefit plan has service area limitations and the dependent lives within thirty miles or thirty minutes of a network primary care provider.

2. "Basic coverage" means coverage provided under a health benefit plan that at a minimum provides coverage for emergency care, inpatient and outpatient hospital care, physician services whether provided within or outside a hospital setting, and laboratory and x-ray services.

3. "Child" means a person for whom child or medical support may be ordered pursuant to chapter 234, 239B, 252A, 252C, 252F, 252H, 252K, 598, 600B or any other chapter of the Code or pursuant to a comparable statute of a foreign jurisdiction.

4. "Department" means the department of human services, which includes but is not limited to the child support recovery unit, or any comparable support enforcement agency of another state.

5. "Dependent" means a child, or an obligee for whom a court may order coverage by a health benefit plan pursuant to section 252E.3.

6. "Enroll" means to be eligible for and covered by a health benefit plan.

7. "Health benefit plan" means any policy or contract of insurance, indemnity, subscription or membership issued by an insurer, health service corporation, health maintenance organization, or any similar corporation, organization, or a self-insured employee benefit plan, for the purpose of covering medical expenses. These expenses may include, but are not limited to hospital, surgical, major medical insurance, dental, optical, prescription drugs, office visits, or any combination of these or any other comparable health care expenses.

6- 8. "Insurer" means any entity which provides a health benefit plan.

7- 9. "Medical support" means either the provision of a health benefit plan, including a group or employment-related or an individual health benefit plan, or a health benefit plan provided pursuant to chapter 514E, to meet the medical needs of a dependent and the cost of any premium required by a health benefit plan, or the payment to the obligee of a monetary amount in lieu of a health benefit plan, either of which is an obligation separate from any monetary amount of child support ordered to be paid. Medical support is not alimony.

10. "National medical support notice" means a notice as prescribed under 42 U.S.C. § 666(a)(19) or a substantially similar notice, that is issued and forwarded by the department to enforce medical support provisions of a support order.

8- 11. "Obligee" means a parent or another natural person legally entitled to receive a support payment on behalf of a child.

9- 12. "Obligor" means a parent or another natural person legally responsible for the support of a dependent.

10- 13. "Order" means a support order entered pursuant to chapter 234, 252A, 252C, 252F, 252H, 252K, 598, 600B, or any other support chapter, or pursuant to a comparable statute of a foreign jurisdiction, or an ex parte order entered pursuant to section 252E.4. "Order" also includes a notice of such an order issued by the child-support-recovery-unit-to-an-employer department.

14. "Plan administrator" means the employer or sponsor that offers the health benefit plan or the person to whom the duty of plan administrator is delegated by the employer or sponsor offering the health benefit plan, by written agreement of the parties.

15. "Primary care provider" means a physician who provides primary care who is a family or general practitioner, a

pediatrician, an internist, an obstetrician, or a gynecologist.

Sec. 4. Section 252E.2, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

An insurer who is subject to the federal Employee Retirement Income Security Act, as codified in 29 U.S.C. § 1169, shall provide benefits in accordance with that section which meet the requirements of a qualified medical child support order. For the purposes of this subsection "qualified medical child support order" means and includes a medical child support order as defined in 29 U.S.C. § 1169, or a child support order which creates or recognizes the existence of a child's right to, or assigns to a child the right to, receive benefits for which a participant or child is eligible under a group health plan or a notice of such an order issued by the child-support-recovery-unit department, and which specifies the following:

Sec. 5. Section 252E.4, subsection 1, Code 2001, is amended to read as follows:

1. When a support order requires an obligor to provide coverage under a health benefit plan, the district court or the department may enter an ex parte order directing an employer to take all actions necessary to enroll an obligor's dependent for coverage under a health benefit plan or may include the provisions in an ex parte income withholding order or notice of income withholding pursuant to chapter 252D. The child support recovery unit, where appropriate, shall issue a national medical support notice to an employer within two business days after the date information regarding a newly hired employee is entered into the centralized employee registry and matched with a noncustodial parent in the case being enforced by the unit. The department may amend the information in the ex parte order or may amend or terminate the national medical support notice regarding health insurance provisions if necessary to comply with health insurance

requirements including but not limited to the provisions of section 252E.2, subsection 2, or to correct a mistake of fact.

Sec. 6. Section 252E.5, subsections 1 and 3, Code 2001, are amended to read as follows:

1. When the order has been forwarded to the obligor's employer pursuant to section 252E.4, the order is binding on the employer and the employer's insurer to the extent that the dependent is eligible to be enrolled in the plan under the applicable terms and conditions of the health benefit plan and the standard enrollment guidelines of the insurer. The employer shall allow enrollment of the dependent at any time, notwithstanding any enrollment season restrictions. If a provision of this section conflicts with a provision in the national medical support notice, or in subsection 9, the provision in the notice and subsection 9 shall apply.

3. The employer shall withhold from the employee's compensation, the employee's share, if any, of premiums for the health benefit plan in an amount that does not exceed the amount specified in the national medical support notice or the amount specified in 15 U.S.C. § 1673(b) and which is consistent with federal law. The employer shall forward the amount withheld to the insurer.

Sec. 7. Section 252E.5, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 9. If the department issues a national medical support notice to an employer or plan administrator, all of the following shall apply:

- a. The employer and plan administrator shall comply with the provisions in the notice.
- b. The employer and the plan administrator shall treat the notice as an application by the department for health benefit plan coverage for the dependent to the extent such application is required by the health benefit plan.
- c. If the obligor named in the notice is not an employee of the employer, or if a health benefit plan is not offered or

available to the employee, the employer shall notify the department, as provided in the notice, within twenty business days after the date of the notice.

d. If a health benefit plan is offered or available to the employee, the employer shall send the plan administrator's portion of the notice to each appropriate plan administrator within twenty business days after the date of the notice.

e. Upon notification from the plan administrator that the dependent is enrolled, the employer shall either withhold and forward the premiums as provided in subsection 3, or shall notify the department that the enrollment cannot be completed due to limits established for withholding as provided in subsection 3.

f. If the plan administrator notifies the employer that the obligor is subject to a waiting period that expires more than ninety days from the date of receipt of the notice by the plan administrator or that the obligor is subject to a waiting period that is measured in a manner other than the passage of time, the employer shall notify the plan administrator when the obligor becomes eligible to enroll in the plan and that the notice requires enrollment in the plan of the dependent named in the notice.

g. The plan administrator shall enroll the dependent, and if necessary to enrollment of the dependent shall also enroll the obligor, in the plan selected in accordance with this paragraph. All of the following shall apply to the selection of the plan:

- (1) If the obligor is enrolled in a health benefit plan that offers dependent coverage, that plan shall be selected.
- (2) If the obligor is not enrolled in a plan or is not enrolled in a plan that offers dependent coverage, and if only one plan with dependent coverage is offered by the employer, that plan shall be selected.
- (3) If the obligor is not enrolled in a health benefit plan or is not enrolled in a health benefit plan that offers

dependent coverage, if more than one plan with dependent coverage is offered by the employer, and if the notice is issued by the child support recovery unit, all of the following shall apply:

(a) If only one of the plans is accessible to the dependent, that plan shall be selected. If none of the plans with dependent coverage is accessible to the dependent, the unit shall amend or terminate the notice.

(b) If more than one of the plans is accessible to the dependent, the plan selected shall be the plan that provides basic coverage for which the employee's share of the premium is lowest.

(c) If more than one of the plans is accessible to the dependent but none of the accessible plans provides basic coverage, the plan selected shall be a plan that is accessible and for which the employee's share of the premium is lowest.

(d) If the employee's share of the premiums is the same under all plans described in subparagraph (b) or (c), the unit shall attempt to consult with the obligee when selecting the plan. If the obligee does not respond within ten days of the unit's attempt, the unit shall select a plan which shall be the plan's default option, if any, or the plan with the lowest deductibles and copayment requirements.

(4) If the obligor is not enrolled in a health benefit plan or is not enrolled in a health benefit plan that offers dependent coverage, if more than one plan with dependent coverage is offered by the employer, and if the notice is issued by the child support enforcement agency of another state, that agency shall select the plan as provided in paragraph "h", subparagraph (3).

h. Within forty business days after the date of the notice, the plan administrator shall do all of the following as directed by the notice:

(1) Complete the appropriate portion of the notice and return the portion to the department.

(2) If the dependent is or is to be enrolled, notify the obligor, the obligee, and the child and furnish the obligee with necessary information. Provide the child support recovery unit with the type of health benefit plan under which the dependent has been enrolled, including whether dental, optical, office visits, and prescription drugs are covered services.

(3) If more than one health benefit plan is available to the obligor and the obligor is not enrolled, forward plan descriptions and documents to the department and enroll the dependent, and if necessary the obligor, in the plan selected by the department or in any default option if the plan administrator has not received a selection from the department within twenty business days of the date the plan administrator returned the national medical support notice response to the department.

(4) If the obligor is subject to a waiting period that expires more than ninety days from the date of receipt of the notice by the plan administrator or if the obligor has not completed a waiting period that is measured in a manner other than the passage of time, notify the employer, the department, the obligor, and the obligee. Upon satisfaction of the period or requirement, complete the enrollment.

(5) Upon completion of the enrollment, notify the employer for a determination of whether the necessary employee share of the premium is available.

(6) If the plan administrator is subject to the federal Employee Retirement Income Security Act, as codified in 29 U.S.C. § 1169, or is subject to the federal Child Support Performance and Incentive Act of 1998, Pub. L. No. 105-200, § 401, subsection (e) or (f) and the plan administrator determines the notice does not constitute a qualified medical child support order, complete and send the response to the department and notify the obligor, the obligee, and the child of the specific reason for the determination.

Sec. 8. Section 252E.6, subsection 2, Code 2001, is amended to read as follows:

2. For cases for which services are being provided pursuant to chapter 252B, the department shall notify the employer when there is no longer a current order for medical support in effect for which the department is responsible. However, termination of an-obitgee's medical support ordered pursuant to section 252E.3 shall be governed by the insurer's health benefit plan provisions for termination and by applicable federal law.

Sec. 9. Section 252E.6A, Code 2001, is amended to read as follows:

252E.6A MOTION TO QUASH.

1. An obligor may move to quash the order to the employer under section 252E.4 by following the same procedures and alleging a mistake of a fact as provided in section 252D.31 or as provided in subsection 2. If the unit is enforcing an income withholding order and a medical support order simultaneously, any challenge to the income withholding order and medical support enforcement shall be filed and heard simultaneously.

2. The obligor may allege as a mistake of fact an error in the availability of dependent coverage under the health benefit plan because the coverage is not accessible to the dependent. Even if the plan is not accessible as defined in section 252E.1, the court may determine that the plan is substantially accessible if the obligee demonstrates that the dependent may receive a benefit under the plan. Section 252K.316 relating to evidence and procedure shall apply to the court proceeding.

~~2-~~ 3. The employer shall comply with the requirements of this chapter until the employer receives notice that a motion to quash has been granted, or that the unit has amended or terminated the national medical support notice.

Sec. 10. Section 252H.2, subsection 12, Code 2001, is amended to read as follows:

12. "State" means "state" as defined in section 252A-2 252K.101.

Sec. 11. Section 252H.3, subsection 1, Code 2001, is amended to read as follows:

1. Any action initiated under this chapter, including any court hearing resulting from an action, shall be limited in scope to the adjustment or modification of the child or medical support or cost-of-living alteration of the child support provisions of a support order. A determination of a controlling order is within the scope of this chapter. If the social security disability provisions of sections 598.22 and 598.22C apply, a determination of the amount of delinquent support due is within the scope of this chapter.

Sec. 12. Section 252H.8, subsection 4, paragraph g, Code 2001, is amended to read as follows:

g. Copies of any computation worksheet prepared by the unit to determine the amount of support calculated using the mandatory child support guidelines established under section 598.21, subsection 4, and, if appropriate and the social security disability provisions of sections 598.22 and 598.22C apply, a determination of the amount of delinquent support due.

Sec. 13. Section 252H.9, subsection 3, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. h. If applicable, the amount of delinquent support due based upon the receipt of social security disability payments as provided in sections 598.22 and 598.22C.

Sec. 14. Section 252H.16, subsection 1, Code 2001, is amended to read as follows:

1. The unit shall conduct the review and determine whether an adjustment is appropriate. As necessary, the unit shall make a determination of the controlling order or the amount of

delinquent support due based upon the receipt of social security disability payments as provided in sections 598.22 and 598.22C.

Sec. 15. Section 252H.22, Code 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The support order is not subject to the social security disability provisions pursuant to sections 598.22 and 598.22C.

Sec. 16. Section 598.21, subsection 4, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. For the purposes of including a child's dependent benefit in calculating a support obligation under this section for a child whose parent has been awarded disability benefits under the federal Social Security Act, the provisions of section 598.22C shall apply.

Sec. 17. Section 598.21, subsection 5A, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. A support order, decree, or judgment entered or pending before July 1, 1997, that provides for support of a child for college, university, or community college expenses, may be modified in accordance with this subsection.

Sec. 18. Section 598.22, unnumbered paragraph 1, Code 2001, is amended to read as follows:

Except as otherwise provided in section 598.22A, this section applies to all initial or modified orders for support entered under this chapter, chapter 234, 252A, 252C, 252F, 600B, or any other chapter of the Code. All orders or judgments entered under chapter 234, 252A, 252C, 252F, or 600B, or under this chapter or any other chapter which provide for temporary or permanent support payments shall direct the payment of those sums to the clerk of the district court or the collection services center in accordance with section 252B.14 for the use of the person for whom the payments have been awarded. Beginning October 1, 1999, all income

withholding payments shall be directed to the collection services center. Payments to persons other than the clerk of the district court and the collection services center do not satisfy the support obligations created by the orders or judgments, except as provided for trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, for tax refunds or rebates in section 602.8102, subsection 47, or for dependent benefits paid to the child support obligee as the result of disability benefits awarded to the child support obligor under the federal Social Security Act. For trusts governed by the federal Retirement Equity Act of 1984, Pub. L. No. 98-397, the order for income withholding or notice of the order for income withholding shall require the payment of such sums to the alternate payee in accordance with the federal Act. For dependent benefits paid to the child support obligee as a result of disability benefits awarded to the child support obligor under the federal Social Security Act, the provisions of section 598.22C shall apply.

Sec. 19. NEW SECTION. 598.22C CHILD SUPPORT -- SOCIAL SECURITY DISABILITY DEPENDENT BENEFITS.

If dependent benefits are paid for a child as a result of disability benefits awarded to the child's parent under the federal Social Security Act, all of the following shall apply:

1. Unless the court otherwise provides, dependent benefits paid to the child support obligee as a result of disability benefits awarded to the child support obligor fully satisfy and substitute for the support obligations for the same period of time for which the benefits are awarded.

2. For the purposes of calculating a support obligation under section 598.21, subsection 4, the dependent benefits paid for any child shall be included as income to the disabled parent.

3. a. Any order or judgment for support for a child for whom social security disability benefits are paid to the child support obligee as a result of disability benefits awarded to the child support obligor shall include all of the following:

(1) The dollar amount of the child support obligation as calculated by application of the guidelines under section 598.21, subsection 4, and a statement that the social security dependent benefits are included as income to the obligor in that calculation.

(2) The dollar amount of the social security dependent benefits paid to the obligee which shall be dollar-for-dollar satisfaction of the obligor's child support obligation.

(3) The dollar amount, if any, the obligor shall pay after application of the social security dependent benefits as a credit to or dollar-for-dollar satisfaction of the child support obligation.

b. The amount of the child support obligation stated in the order, and the amount the obligor shall pay after application of the social security disability dependent benefit credit or satisfaction stated in the order, shall continue until modified, as provided in section 598.21.

4. The amount of any child support obligation satisfied under this section based upon the receipt of dependent benefits paid to the child support obligee as a result of disability benefits awarded to the child support obligor shall not be considered delinquent.

Sec. 20. Section 600.11, subsection 2, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. A person who is ordered to pay support or a postsecondary education subsidy pursuant to section 598.21, subsection 5A, or chapter 234, 252A, 252C, 252F, 598, 600B, or any other chapter of the Code, for a person eighteen years of age or older who is being adopted by a stepparent, and the support order or order requires payment of support or postsecondary education subsidy for any period of time after the child reaches eighteen years of age.

Sec. 21. **EFFECTIVE DATE AND RETROACTIVE APPLICABILITY PROVISION.** Section 17 of this Act, relating to the modification of a support order, decree, or judgment pending

on or before July 1, 1997, that provides for support of a child for college, university, or community college expenses, being deemed of immediate importance, takes effect upon enactment and is retroactively applicable to support orders, decrees, or judgments as described in section 17 of this Act entered or pending before July 1, 1997.

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BRENT SIEGRIST  
Speaker of the House

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MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2395, Seventy-ninth General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved 9/15, 2002

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THOMAS J. VILSACK  
Governor