

FEB 9 2006
Place On Calendar

HOUSE FILE 2332
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 585)

Passed House, Date 3-21-06 Passed Senate, Date _____
Vote: Ayes 99 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to income withholding under the child support
2 recovery program.

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

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HF 2332

TLSB 5357HV 81

pf/je/5

1 Section 1. NEW SECTION. 252D.16A INCOME WITHHOLDING
2 ORDER -- CHILD SUPPORT RECOVERY UNIT.

3 If support payments are ordered under this chapter, chapter
4 232, 234, 252A, 252C, 252E, 252F, 252H, 598, 600B, or any
5 other applicable chapter, or under a comparable statute of a
6 foreign jurisdiction, and if income withholding relative to
7 such support payments is allowed under this chapter, the child
8 support recovery unit may enter an ex parte order notifying
9 the person whose income is to be withheld of the procedure to
10 file a motion to quash the order for income withholding, and
11 ordering the withholding of sums to be deducted from the
12 delinquent person's income as defined in section 252D.16
13 sufficient to pay the support obligation and requiring the
14 payment of such sums to the collection services center. The
15 child support recovery unit shall include the amount of any
16 delinquency and the amount to be withheld in the notice
17 provided to the obligor pursuant to section 252D.17A. Notice
18 of income withholding shall be provided to the obligor and to
19 the payor of income pursuant to sections 252D.17 and 252D.17A.

20 Sec. 2. Section 252D.18, Code 2005, is amended by adding
21 the following new subsection:

22 NEW SUBSECTION. 1A. The child support recovery unit may
23 modify an amount specified in an income withholding order or
24 notice of income withholding by providing notice to the payor
25 of income and the obligor pursuant to sections 252D.17 and
26 252D.17A.

27 Sec. 3. RETROACTIVE APPLICABILITY -- AMENDING RULES. This
28 Act is retroactively applicable to support orders and income
29 withholding orders entered or pending before July 1, 2006.
30 Until the department of human services amends rules pursuant
31 to chapter 17A to conform to this Act, any existing rule
32 regarding an amount to be withheld or an amount of a
33 delinquency in an income withholding order shall be
34 interpreted to also mean that the unit may specify such an
35 amount in a notice of income withholding in lieu of an income

1 withholding order. Any existing rule providing a right to
2 contest a new or modified income withholding order through the
3 unit shall be interpreted to also mean a right to contest each
4 notice of income withholding which specifies a new or modified
5 total amount to withhold.

6 EXPLANATION

7 This bill relates to income withholding of support
8 payments.

9 The bill provides that the child support recovery unit,
10 when issuing an ex parte income withholding order, include the
11 amount of any delinquency and the amount to be withheld in the
12 notice provided to the obligor under the existing Code section
13 relating to provision of notice. The bill also provides that
14 notice of income withholding is to be provided to the obligor
15 and to the payor of income pursuant to existing Code
16 provisions relating to that notice.

17 The bill also authorizes the child support recovery unit to
18 modify the amount specified in an income withholding order or
19 notice of income withholding by providing notice to the
20 obligor and the payor of income.

21 The provisions of the bill are retroactively applicable to
22 support orders and income withholding orders entered or
23 pending prior to July 1, 2006. Until such time as the
24 department of human services amends rules to reflect the
25 changes in the bill, existing rules regarding an amount to be
26 withheld or an amount of a delinquency in an income
27 withholding order are to be interpreted to also mean that the
28 unit may specify such an amount in a notice of income
29 withholding in lieu of an income withholding order, and any
30 existing rule providing a right to contest each new or
31 modified income withholding order through the unit is to be
32 interpreted to also mean a right to contest each notice of
33 income withholding which specifies a new or modified total
34 amount to withhold.

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HOUSE FILE 2332

H-8134

1 Amend House File 2332 as follows:

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

4 "Sec. ____ . Section 252B.9, subsection 1, Code
5 Supplement 2005, is amended by adding the following
6 new paragraph:

7 NEW PARAGRAPH. j. Notwithstanding any provision
8 of law making this information confidential, data
9 provided to the department by an insurance carrier
10 under section 505.25 shall also be provided to the
11 unit. Provision of data to the unit under this
12 paragraph shall not require an agreement or
13 modification of an agreement between the department
14 and an insurance carrier, but the provisions of this
15 section applicable to information received by the unit
16 shall apply to the data received pursuant to section
17 505.25 in lieu of any confidentiality, privacy,
18 disclosure, use, or other provisions of an agreement
19 between the department and an insurance carrier."

20 2. Page 1, by inserting after line 26, the
21 following:

22 "Sec. ____ . Section 505.25, Code Supplement 2005,
23 is amended to read as follows:

24 505.25 INFORMATION PROVIDED TO MEDICAL ASSISTANCE
25 AND HAWK-I PROGRAMS AND THE CHILD SUPPORT RECOVERY
26 UNIT.

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

36 3. Page 1, by striking lines 27 and 28, and
37 inserting the following:

38 "Sec. ____ . RETROACTIVE APPLICABILITY -- AMENDING
39 RULES. The sections of this Act creating section
40 252D.16A and amending section 252D.18 are
41 retroactively applicable to support orders and
42 income".

43 4. Title page, line 1, by inserting after the
44 word "withholding" the following: "and information
45 sharing".

46 5. By renumbering as necessary.

By HEATON of Henry

H-8134 FILED MARCH 7, 2006

HOUSE FILE 2332

H-8135

1 Amend House File 2332 as follows:
2 1. Page 1, by inserting after line 19, the
3 following:
4 "Sec. ____ . Section 252D.17, subsection 8, Code
5 2005, is amended to read as follows:
6 8. If the payor knowingly fails to withhold income
7 or to pay the amounts withheld to the collection
8 services center or the clerk of court in accordance
9 with the provisions of the order, the notice of the
10 order, or the notification of payors of income
11 provisions established in section 252B.13A, the payor
12 commits a simple misdemeanor for a first offense and
13 is liable for the accumulated amount which should have
14 been withheld, together with costs, interest, and
15 reasonable attorney fees related to the collection of
16 the amounts due from the payor. For each subsequent
17 offense prescribed under this subsection, the payor
18 commits a serious misdemeanor and is liable for the
19 accumulated amount which should have been withheld,
20 together with costs, interest, and reasonable attorney
21 fees related to the collection of the amounts due from
22 the payor."
23 2. By renumbering as necessary.

By HEATON of Henry

H-8135 FILED MARCH 7, 2006

HOUSE FILE 2332

H-8142

1 Amend House File 2332 as follows:
2 1. Page 1, by inserting before line 1 the
3 following:
4 "Sec. ____ . Section 252B.15, Code 2005, is amended
5 by adding the following new subsection:
6 NEW SUBSECTION. 3. Chapter 556 shall not apply to
7 payments received by the collection services center."
8 2. Title page, line 1, by inserting after the
9 word "to" the following: "child support, including
10 processing and disbursement of support payments and".

By LUKAN of Dubuque

H-8142 FILED MARCH 8, 2006

HOUSE FILE 2332

H-8146

1 Amend House File 2332 as follows:

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

4 "Section 1. Section 232.4, Code 2005, is amended
5 to read as follows:

6 232.4 JURISDICTION -- SUPPORT OBLIGATION --
7 CUSTODY.

8 1. Notwithstanding any other provision of this
9 chapter, and for the purposes of establishing a
10 parental liability obligation for a child under the
11 jurisdiction of the juvenile court, a support
12 obligation shall be established pursuant to section
13 234.39.

14 2. a. For the purposes of modifying an order for
15 custody, physical care, or support of a child under
16 the jurisdiction of the juvenile court, if a
17 permanency order of the juvenile court issued pursuant
18 to section 232.58 or 232.104 transfers the legal
19 custody of the child to a parent who is subject to an
20 order to pay an accruing child support obligation
21 entered under any chapter of the Code, the transfer
22 constitutes a substantial change in circumstances
23 pursuant to section 598.21C, subsection 1, paragraph
24 "k", and for the purposes of section 598.41. Upon
25 issuance of a permanency order described in this
26 subsection, the juvenile court shall submit a copy of
27 the permanency order to the district court in each
28 county where a custody, physical care, or support
29 order involving the parents is entered. A copy of the
30 permanency order shall be personally served or sent by
31 regular mail to the last known address of a parent,
32 the obligee of the accruing support obligation, and to
33 the child support recovery unit. The district court
34 shall modify any existing custody, physical care, or
35 support order to reflect the provisions of the
36 permanency order submitted, subject to the provisions
37 of paragraphs "b", "c", and "d". The district court
38 order modifying support shall be effective upon
39 filing. Unpaid support which accrued prior to the
40 filing date remains due and owing.

41 b. The provisions of chapter 252K and 28 U.S.C. §
42 1738 shall apply to this subsection.

43 c. If the permanency order from the juvenile court
44 applies to fewer than all of the children for whom
45 there is an order for an accruing support obligation
46 and if there is no step change in the support order,
47 the district court shall determine support based upon
48 the guidelines established under section 598.21B, and
49 then modify support. The district court may declare
50 the step change amounts based upon the prior

H-8146

1 guidelines calculation records, or the district court
2 may recalculate the support based upon the guidelines.

3 For the purposes of this subsection, "step change"
4 means step change as defined in section 252B.20.

5 d. If there is no existing district court order
6 awarding custody or physical care of the child, the
7 district court shall limit the modification under this
8 subsection to support.

9 e. Any filing fee or court costs associated with
10 an order under this subsection shall be waived."

11 2. Page 1, by inserting after line 26 the
12 following:

13 "Sec. ____ . Section 598.21C, subsection 1,
14 paragraph k, Code Supplement 2005, is amended to read
15 as follows:

16 k. Entry of a dispositional or permanency order in
17 juvenile court pursuant to chapter 232 placing custody
18 or physical care of a child with a party who is
19 obligated to pay support for a child."

20 3. Page 1, by inserting before line 27, the
21 following:

22 "Sec. ____ . APPLICABILITY. The sections of this
23 Act amending sections 232.4 and 598.21C apply to
24 permanency orders entered by the juvenile court on or
25 after July 1, 2006."

26 4. Page 1, lines 27 and 28, by striking the words
27 "This Act is" and inserting the following: "The
28 sections of this Act creating section 252D.16A and
29 amending section 252D.18 are".

30 5. Page 1, line 31, by inserting after the words
31 "conform to" the following: "those sections of".

32 6. Title page, line 1, by inserting after the
33 word "to" the following: "child support, including
34 modification of support based upon permanency orders
35 of the juvenile court and".

36 7. Title page, line 2, by inserting after the
37 word "program" the following: "and providing for
38 applicability and retroactive applicability".

39 8. By renumbering as necessary.

By HUSER of Polk
HEDDENS of Story

HOUSE FILE 2332

H-8163

1 Amend House File 2332 as follows:

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

4 "Section 1. Section 232.4, Code 2005, is amended
5 to read as follows:

6 232.4 JURISDICTION -- SUPPORT OBLIGATION --
7 CUSTODY.

8 1. Notwithstanding any other provision of this
9 chapter, and for the purposes of establishing a
10 parental liability obligation for a child under the
11 jurisdiction of the juvenile court, a support
12 obligation shall be established pursuant to section
13 234.39.

14 2. a. For the purposes of modifying an order for
15 custody, physical care, or support of a child under
16 the jurisdiction of the juvenile court, if a
17 permanency order of the juvenile court issued pursuant
18 to section 232.58 or 232.104 transfers the legal
19 custody of the child to a parent who is subject to an
20 order to pay an accruing child support obligation
21 entered under any chapter of the Code, the transfer
22 constitutes a substantial change in circumstances
23 pursuant to section 598.21C, subsection 1, paragraph
24 "k", and for the purposes of section 598.41. Upon
25 issuance of a permanency order described in this
26 subsection, the juvenile court shall submit a copy of
27 the permanency order to the district court in each
28 county where a custody, physical care, or support
29 order involving the parents is entered. A copy of the
30 permanency order shall be personally served or sent by
31 regular mail to the last known address of a parent,
32 the obligee of the accruing support obligation, and to
33 the child support recovery unit. The district court
34 shall modify any existing custody, physical care, or
35 support order to reflect the provisions of the
36 permanency order submitted, subject to the provisions
37 of paragraphs "b", "c", and "d". The district court
38 order modifying support shall be effective upon
39 filing. Unpaid support which accrued prior to the
40 filing date remains due and owing.

41 b. The provisions of chapter 252K and 28 U.S.C. §
42 1738B shall apply to this subsection.

43 c. If the permanency order from the juvenile court
44 applies to fewer than all of the children for whom
45 there is an order for an accruing support obligation
46 and if there is no step change in the support order,
47 the district court shall determine support based upon
48 the guidelines established under section 598.21B, and
49 then modify support. The district court may declare
50 the step change amounts based upon the prior

H-8163

1 guidelines calculation records, or the district court
2 may recalculate the support based upon the guidelines.
3 For the purposes of this subsection, "step change"
4 means step change as defined in section 252B.20.
5 d. If there is no existing district court order
6 awarding custody or physical care of the child, the
7 district court shall limit the modification under this
8 subsection to support.

9 e. Any filing fee or court costs associated with
10 an order under this subsection shall be waived."

11 2. Page 1, by inserting after line 26 the
12 following:

13 "Sec. ____ . Section 598.21C, subsection 1,
14 paragraph k, Code Supplement 2005, is amended to read
15 as follows:

16 k. Entry of a dispositional or permanency order in
17 juvenile court pursuant to chapter 232 placing custody
18 or physical care of a child with a party who is
19 obligated to pay support for a child."

20 3. Page 1, by inserting before line 27, the
21 following:

22 "Sec. ____ . APPLICABILITY. The sections of this
23 Act amending sections 232.4 and 598.21C apply to
24 permanency orders entered by the juvenile court on or
25 after July 1, 2006."

26 4. Page 1, lines 27 and 28, by striking the words
27 "This Act is" and inserting the following: "The
28 sections of this Act creating section 252D.16A and
29 amending section 252D.18 are".

30 5. Page 1, line 31, by inserting after the words
31 "conform to" the following: "those sections of".

32 6. Title page, line 1, by inserting after the
33 word "to" the following: "child support, including
34 modification of support based upon permanency orders
35 of the juvenile court and".

36 7. Title page, line 2, by inserting after the
37 word "program" the following: "and providing for
38 applicability and retroactive applicability".

39 8. By renumbering as necessary.

By HUSER of Polk
HEDDENS of Story

HOUSE FILE 2332

H-8162

1 Amend House File 2332 as follows:

2 1. Page 1, by inserting after line 26 the
3 following:

4 "Sec. _____. Section 598.21C, subsection 1,
5 paragraph k, Code Supplement 2005, is amended to read
6 as follows:

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

13 Sec. _____. APPLICABILITY. The section of this Act
14 amending section 598.21C applies to permanency orders
15 entered by the juvenile court on or after July 1,
16 2006."

17 2. Page 1, by striking lines 27 and 28 and
18 inserting the following:

19 "Sec. _____. RETROACTIVE APPLICABILITY -- AMENDING
20 RULES. The sections of this Act creating section
21 252D.16A and amending section 252D.18 are
22 retroactively applicable to support orders and
23 income".

24 3. Page 1, line 31, by inserting after the words
25 "conform to" the following: "those sections of".

26 4. Title page, line 1, by inserting after the
27 word "to" the following: "child support, including
28 modification of support based upon permanency orders
29 of the juvenile court and".

30 5. Title page, line 2, by inserting after the
31 word "program" the following: "and providing for
32 applicability and retroactive applicability".

33 6. By renumbering as necessary.

By HUSER of Polk
HEDDENS of Story

H-8162 FILED MARCH 9, 2006

HOUSE FILE 2332
BY COMMITTEE ON HUMAN RESOURCES

(SUCCESSOR TO HSB 585)

(As Amended and Passed by the House March 21, 2006)

Re- Passed House, Date 5-3-06 Passed Senate, Date 5-2-06
Vote: Ayes 94 Nays 0 Vote: Ayes 46 Nays 0
Approved _____ *Re-passed 5-3-06*
49-0

A BILL FOR

1 An Act relating to child support, including processing and
2 disbursement of support payments, modification of support
3 based upon permanency orders of the juvenile court, income
4 withholding and information sharing under the child support
5 recovery program and providing for applicability and
6 retroactive applicability.

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

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House Amendments _____

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1 Section 1. Section 252B.9, subsection 1, Code Supplement
2 2005, is amended by adding the following new paragraph:

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

15 Sec. 2. Section 252B.15, Code 2005, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 3. Chapter 556 shall not apply to
18 payments received by the collection services center.

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

21 If support payments are ordered under this chapter, chapter
22 232, 234, 252A, 252C, 252E, 252F, 252H, 598, 600B, or any
23 other applicable chapter, or under a comparable statute of a
24 foreign jurisdiction, and if income withholding relative to
25 such support payments is allowed under this chapter, the child
26 support recovery unit may enter an ex parte order notifying
27 the person whose income is to be withheld of the procedure to
28 file a motion to quash the order for income withholding, and
29 ordering the withholding of sums to be deducted from the
30 delinquent person's income as defined in section 252D.16
31 sufficient to pay the support obligation and requiring the
32 payment of such sums to the collection services center. The
33 child support recovery unit shall include the amount of any
34 delinquency and the amount to be withheld in the notice
35 provided to the obligor pursuant to section 252D.17A. Notice

1 of income withholding shall be provided to the obligor and to
2 the payor of income pursuant to sections 252D.17 and 252D.17A.

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

5 8. If the payor knowingly fails to withhold income or to
6 pay the amounts withheld to the collection services center or
7 the clerk of court in accordance with the provisions of the
8 order, the notice of the order, or the notification of payors
9 of income provisions established in section 252B.13A, the
10 payor commits a simple misdemeanor for a first offense and is
11 liable for the accumulated amount which should have been
12 withheld, together with costs, interest, and reasonable
13 attorney fees related to the collection of the amounts due
14 from the payor. For each subsequent offense prescribed under
15 this subsection, the payor commits a serious misdemeanor and
16 is liable for the accumulated amount which should have been
17 withheld, together with costs, interest, and reasonable
18 attorney fees related to the collection of the amounts due
19 from the payor.

20 Sec. 5. Section 252D.18, Code 2005, is amended by adding
21 the following new subsection:

22 NEW SUBSECTION. 1A. The child support recovery unit may
23 modify an amount specified in an income withholding order or
24 notice of income withholding by providing notice to the payor
25 of income and the obligor pursuant to sections 252D.17 and
26 252D.17A.

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

29 505.25 INFORMATION PROVIDED TO MEDICAL ASSISTANCE AND
30 HAWK-I PROGRAMS AND THE CHILD SUPPORT RECOVERY UNIT.

31 A carrier, as defined in section 514C.13, shall enter into
32 a health insurance data match program with the department of
33 human services for the sole purpose of comparing the names of
34 the carrier's insureds with the names of recipients of the
35 medical assistance program under chapter 249A, individuals

1 under the purview of the child support recovery unit pursuant
2 to chapter 252B, or enrollees of the hawk-i program under
3 chapter 514I.

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

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

12 Sec. 8. APPLICABILITY. The section of this Act amending
13 section 598.21C applies to permanency orders entered by the
14 juvenile court on or after July 1, 2006.

15 Sec. 9. RETROACTIVE APPLICABILITY -- AMENDING RULES. The
16 sections of this Act creating section 252D.16A and amending
17 section 252D.18 are retroactively applicable to support orders
18 and income withholding orders entered or pending before July
19 1, 2006. Until the department of human services amends rules
20 pursuant to chapter 17A to conform to those sections of this
21 Act, any existing rule regarding an amount to be withheld or
22 an amount of a delinquency in an income withholding order
23 shall be interpreted to also mean that the unit may specify
24 such an amount in a notice of income withholding in lieu of an
25 income withholding order. Any existing rule providing a right
26 to contest a new or modified income withholding order through
27 the unit shall be interpreted to also mean a right to contest
28 each notice of income withholding which specifies a new or
29 modified total amount to withhold.

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HOUSE FILE 2332

S-5214

1 Amend House File 2332, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Section 1. Section 252B.7, subsection 1,
6 paragraph c, Code 2005, is amended to read as follows:

7 c. An information charging a violation of section
8 726.3, 726.5, 726.5A, or 726.6."

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

11 "Sec. _____. Section 600B.29, Code 2005, is amended
12 to read as follows:

13 600B.29 DESERTION STATUTE APPLICABLE.

14 The provisions of sections 726.3 through ~~726.5~~
15 726.5A relating to desertion, nonsupport, and
16 abandonment of children, have the same effect in cases
17 of illegitimacy where paternity has been judicially
18 established, or has been acknowledged by the father in
19 writing or by the furnishing of support, as in cases
20 of children born in wedlock.

21 Sec. _____. Section 726.4, Code 2005, is amended to
22 read as follows:

23 726.4 HUSBAND OR WIFE MAY BE WITNESS.

24 In all prosecutions under section 726.3, 726.5,
25 726.5A, or 726.6, the husband or wife is a competent
26 witness for the state and may testify to relevant acts
27 or communications between them.

28 Sec. _____. NEW SECTION. 726.5A HABITUAL
29 NONSUPPORT AS CHILD ENDANGERMENT.

30 A person who, being able to do so, fails or refuses
31 to provide support for the person's child or ward
32 under the age of eighteen years for a period longer
33 than one year or in an amount greater than five
34 thousand dollars commits child endangerment based upon
35 habitual nonsupport. A person shall not be held to
36 have violated this section if the person fails to
37 support any child or ward under the age of eighteen
38 who has left the home of the parent or other person
39 having legal custody of the child or ward without the
40 consent of that parent or person having legal custody
41 of the child or ward. Support, for the purposes of
42 this section, means any support which has been fixed
43 by court order. Child endangerment based upon
44 habitual nonsupport as described in this section is a
45 class "C" felony."

46 3. Title page, line 5, by inserting after the
47 word "program" the following: ", establishing
48 habitual nonsupport as child endangerment, providing a
49 criminal penalty,".

By DOUG SHULL

HOUSE FILE 2332

S-5220

1 Amend House File 2332, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 2, line 5, by striking the word
4 "knowingly" and inserting the following: "knowingly,
5 with actual knowledge and intent to avoid legal
6 obligation,".

7 2. Title page, line 5, by inserting after the
8 word "program" the following: ", providing
9 penalties,".

By FRANK B. WOOD

S-5220 FILED APRIL 25, 2006
ADOPTED

HOUSE FILE 2332

S-5240

1 Amend House File 2332, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Sec. _____. Section 726.5, Code 2005, is amended to
6 read as follows:

7 726.5 NONSUPPORT.

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

24 2. Title page, line 5, by inserting after the
25 word "program" the following: ", nonsupport of a
26 child or ward, providing for and making criminal
27 penalties applicable,".

28 3. By renumbering as necessary.

By DOUG SHULL
KEITH A. KREIMAN

S-5240 FILED MAY 2, 2006

ADOPTED

SENATE AMENDMENT TO
HOUSE FILE 2332

H-8607

1 Amend House File 2332, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 2, line 5, by striking the word
4 "knowingly" and inserting the following: "knowingly,
5 with actual knowledge and intent to avoid legal
6 obligation,".
7 2. Page 3, by inserting after line 11 the
8 following:
9 "Sec. ____ Section 726.5, Code 2005, is amended to
10 read as follows:
11 726.5 NONSUPPORT.
12 A person, who being able to do so, fails or refuses
13 to provide support for the person's child or ward
14 under the age of eighteen years for a period longer
15 than one year or in an amount greater than five
16 thousand dollars commits nonsupport; provided that no
17 person shall be held to have violated this section who
18 fails to support any child or ward under the age of
19 eighteen who has left the home of the parent or other
20 person having legal custody of the child or ward
21 without the consent of that parent or person having
22 legal custody of the child or ward. Support, for the
23 purposes of this section, means any support which has
24 been fixed by court order, or, in the absence of any
25 such order or decree, the minimal requirements of
26 food, clothing or shelter. Nonsupport is a class "D"
27 felony."
28 3. Title page, line 5, by inserting after the
29 word "program" the following: ", nonsupport of a
30 child or ward, providing for and making criminal
31 penalties applicable,".
32 4. Title page, line 5, by inserting after the
33 word "program" the following: ", providing
34 penalties,".
35 5. By renumbering, relettering, or redesignating
36 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-8607 FILED MAY 2, 2006

**HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 2332**

S-5271

1 Amend the Senate amendment, H-8607, to House File
2 2332, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, by inserting after line 27 the
5 following:

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

20 2. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-5271 FILED MAY 3, 2006
CONCURRED

HOUSE FILE 2332

H-8640

1 Amend the Senate amendment, H-8607, to House File
2 2332, as amended, passed, and reprinted by the House,
3 as follows:

4 1. Page 1, by inserting after line 27 the
5 following:

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

20 2. By renumbering as necessary.

By LUKAN of Dubuque

H-8640 FILED MAY 3, 2006
ADOPTED

Proposed By
SF 2332
Lukan
Shanzou
Peterson

HSB 585
HUMAN RESOURCES

SENATE/HOUSE FILE _____
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 income withholding under the child support
2 recovery program.

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

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1 Section 1. NEW SECTION. 252D.16A INCOME WITHHOLDING
2 ORDER -- CHILD SUPPORT RECOVERY UNIT.

3 If support payments are ordered under this chapter, chapter
4 232, 234, 252A, 252C, 252E, 252F, 252H, 598, 600B, or any
5 other applicable chapter, or under a comparable statute of a
6 foreign jurisdiction, and if income withholding relative to
7 such support payments is allowed under this chapter, the child
8 support recovery unit may enter an ex parte order notifying
9 the person whose income is to be withheld of the procedure to
10 file a motion to quash the order for income withholding, and
11 ordering the withholding of sums to be deducted from the
12 delinquent person's income as defined in section 252D.16
13 sufficient to pay the support obligation and requiring the
14 payment of such sums to the collection services center. The
15 child support recovery unit shall include the amount of any
16 delinquency and the amount to be withheld in the notice
17 provided to the obligor pursuant to section 252D.17A. Notice
18 of income withholding shall be provided to the obligor and to
19 the payor of income pursuant to sections 252D.17 and 252D.17A.

20 Sec. 2. Section 252D.18, Code 2005, is amended by adding
21 the following new subsection:

22 NEW SUBSECTION. 1A. The child support recovery unit may
23 modify an amount specified in an income withholding order or
24 notice of income withholding by providing notice to the payor
25 of income and the obligor pursuant to sections 252D.17 and
26 252D.17A.

27 Sec. 3. RETROACTIVE APPLICABILITY -- AMENDING RULES. This
28 Act is retroactively applicable to support orders and income
29 withholding orders entered or pending before July 1, 2006.
30 Until the department of human services amends rules pursuant
31 to chapter 17A to conform to this Act, any existing rule
32 regarding an amount to be withheld or an amount of a
33 delinquency in an income withholding order shall be
34 interpreted to also mean that the unit may specify such an
35 amount in a notice of income withholding in lieu of an income

1 withholding order. Any existing rule providing a right to
2 contest a new or modified income withholding order through the
3 unit shall be interpreted to also mean a right to contest each
4 notice of income withholding which specifies a new or modified
5 total amount to withhold.

6 EXPLANATION

7 This bill relates to income withholding of support
8 payments.

9 The bill provides that the child support recovery unit,
10 when issuing an ex parte income withholding order, include the
11 amount of any delinquency and the amount to be withheld in the
12 notice provided to the obligor under the existing Code section
13 relating to provision of notice. The bill also provides that
14 notice of income withholding is to be provided to the obligor
15 and to the payor of income pursuant to existing Code
16 provisions relating to that notice.

17 The bill also authorizes the child support recovery unit to
18 modify the amount specified in an income withholding order or
19 notice of income withholding by providing notice to the
20 obligor and the payor of income.

21 The provisions of the bill are retroactively applicable to
22 support orders and income withholding orders entered or
23 pending prior to July 1, 2006. Until such time as the
24 department of human services amends rules to reflect the
25 changes in the bill, existing rules regarding an amount to be
26 withheld or an amount of a delinquency in an income
27 withholding order are to be interpreted to also mean that the
28 unit may specify such an amount in a notice of income
29 withholding in lieu of an income withholding order, and any
30 existing rule providing a right to contest each new or
31 modified income withholding order through the unit is to be
32 interpreted to also mean a right to contest each notice of
33 income withholding which specifies a new or modified total
34 amount to withhold.

35



STATE OF IOWA

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

DEPARTMENT OF HUMAN SERVICES
KEVIN W. CONCANNON, DIRECTOR

January 09, 2006

TO: Members of the General Assembly

FROM: Alisa Morris

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

Allow the Child Support Recovery Unit, when it issues an order to withhold income, or amends or updates the amount of the withholding, to do so through notices to the employer and the parent who is court-ordered to pay the support. Current law allows the Unit to enter an income withholding order, and each time the amount to withhold changes, the Unit must amend both the income withholding order, which is sent to the parent and filed with the clerk of court, and the notice to the employer, which is also sent to the parent. In addition, the bill provides that even though the Department's rules only allow the current method for changing the amounts, the Unit may use the new method as soon as this bill is effective.

Once a court issues a child support order, income withholding is the federally-mandated, routine way used for most parents to pay support. Nearly 73% of all the support the Unit collects is paid by wage withholding or withholding from parents' other incomes.

This bill will simplify income withholding for the payment of child support, and will help make changes to income withholding more quickly. In cases when the Unit must quickly lower the withholding amount, such as when the obligation is almost paid off, the bill will streamline the paperwork while providing the required written notice to the employer and parent. It will also assist in those instances, for example, when a parent has two part-time jobs by allowing two notices with the total amount due divided between them, which will be sent to the parent and employers.

Currently, the Unit sends three notices whenever the amount of income withholding changes: a copy of each amended income withholding order, a copy of the amended notice sent to the employer, and a notice explaining the parent's rights. This change means the Unit will reduce the number of forms it sends to the parent ordered to pay the child support, but will continue to provide notice required by federal law, including the delinquency amount, by including it in the notice to the parent.

The bill does not change the parent's right to contest income withholding nor the total amount of the withholding. It will allow more flexibility to accommodate a parent's work activity and employers' needs for documentation.

For additional information regarding this proposal, or other questions, please contact Alisa Morris, Legislative Liaison, at 281-4387 or e-mail at amorris@dhs.state.ia.us.

HOUSE FILE 2332

AN ACT

RELATING TO CHILD SUPPORT, INCLUDING PROCESSING AND DISBURSEMENT OF SUPPORT PAYMENTS, MODIFICATION OF SUPPORT BASED UPON PERMANENCY ORDERS OF THE JUVENILE COURT, INCOME WITHHOLDING AND INFORMATION SHARING UNDER THE CHILD SUPPORT RECOVERY PROGRAM, NONSUPPORT OF A CHILD OR WARD, PROVIDING FOR AND MAKING CRIMINAL PENALTIES APPLICABLE, PROVIDING PENALTIES, AND PROVIDING FOR APPLICABILITY AND RETROACTIVE APPLICABILITY.

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

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

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

Sec. 2. Section 252B.15, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Chapter 556 shall not apply to payments received by the collection services center.

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

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

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

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

attorney fees related to the collection of the amounts due from the payor.

Sec. 5. Section 252D.18, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. The child support recovery unit may modify an amount specified in an income withholding order or notice of income withholding by providing notice to the payor of income and the obligor pursuant to sections 252D.17 and 252D.17A.

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

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

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

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

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

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

726.5 NONSUPPORT.

A person, who being able to do so, fails or refuses to provide support for the person's child or ward under the age of eighteen years for a period longer than one year or in an

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

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

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

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

income withholding order. Any existing rule providing a right to contest a new or modified income withholding order through the unit shall be interpreted to also mean a right to contest each notice of income withholding which specifies a new or modified total amount to withhold.

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2332, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2006

THOMAS J. VILSACK
Governor