

FILED MAR 14 2005

SENATE FILE 357  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1155)

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

**A BILL FOR**

1 An Act relating to administrative modification of a child support  
2 order.

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

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SF 357

1 Section 1. Section 252H.4, subsection 4, Code 2005, is  
2 amended to read as follows:

3 4. The unit shall adopt rules pursuant to chapter 17A to  
4 establish the process for the review of requests for  
5 adjustment, the criteria and procedures for conducting a  
6 review and determining when an adjustment is appropriate, the  
7 procedure and criteria for a cost-of-living alteration, the  
8 criteria and procedure for a request for review and  
9 administrative modification pursuant to section 252H.18A, and  
10 other rules necessary to implement this chapter.

11 Sec. 2. Section 252H.8, subsection 4, paragraph f, Code  
12 2005, is amended to read as follows:

13 f. Copies of any financial statements and supporting  
14 documentation provided by the parents including ~~proof~~  
15 supporting documentation of a substantial change in  
16 circumstances for a request filed pursuant to section  
17 252H.18A.

18 Sec. 3. Section 252H.9, subsection 2, Code 2005, is  
19 amended to read as follows:

20 2. a. For orders to which subchapter II or III is  
21 applicable, the unit shall determine the appropriate amount of  
22 the child support obligation using the current child support  
23 guidelines established pursuant to section 598.21, subsection  
24 4, and the criteria established pursuant to section 252B.7A  
25 and shall determine the provisions for medical support  
26 pursuant to chapter 252E.

27 b. If the unit is administratively modifying an existing  
28 order and establishing support pursuant to section 252H.18A,  
29 subsection 4, the unit shall determine the child support  
30 obligation of both parents or parties in the manner required  
31 by the rule relating to split or divided physical care of a  
32 child under the child support guidelines.

33 Sec. 4. Section 252H.18A, Code 2005, is amended to read as  
34 follows:

35 252H.18A REQUEST FOR REVIEW ~~OUTSIDE-APPLICABLE-TIME-FRAMES~~

1 AND ADMINISTRATIVE MODIFICATION.

2 1. If a support order is ~~not~~ eligible for ~~review and~~  
3 ~~adjustment because the support order is outside of the minimum~~  
4 ~~time frames specified by rule of the department~~ administrative  
5 modification pursuant to section 252H.18, a parent may request  
6 a review and administrative modification by submitting all of  
7 the following to the unit:

8 a. A written request for review and administrative  
9 modification of the support order ~~which is outside of the~~  
10 ~~applicable time frames.~~

11 b. Verified Supporting documentation of a substantial  
12 change in circumstances ~~as specified by rule of the~~  
13 ~~department.~~

14 2. Upon receipt of the request and all documentation  
15 required in subsection 1, the unit shall review the request  
16 and documentation and if appropriate shall issue a notice of  
17 intent to modify as provided in section 252H.19.

18 3. Notwithstanding section 598.21, subsections 8 and 9,  
19 for purposes of this section, a substantial change in  
20 circumstances ~~means there~~ includes but is not limited to any  
21 of the following:

22 a. There has been a change of fifty percent or more in the  
23 income of a parent, and the change is due to financial  
24 circumstances which have existed for a minimum period of three  
25 months and can reasonably be expected to exist for an  
26 additional three months.

27 b. The child for whom support is ordered is currently  
28 residing with and being provided routine care by the parent  
29 who is ordered to pay support, due to circumstances which can  
30 reasonably be expected to last for at least six months. Such  
31 circumstances include but are not limited to any of the  
32 following:

33 (1) The juvenile court has entered an order pursuant to  
34 chapter 232 awarding legal custody or physical care of the  
35 child to the parent who is obligated to pay support for the

1 child.

2 (2) The parent or party to whom support is ordered to be  
3 paid has been incarcerated.

4 (3) The parent or party to whom support is ordered to be  
5 paid has died.

6 (4) The parent or party to whom support is ordered to be  
7 paid agrees to allow the child to reside with and be provided  
8 routine care by the parent who is ordered to pay support.

9 4. A parent requesting an administrative modification  
10 under this section due to circumstances described in  
11 subsection 3, paragraph "b", may also submit a request to the  
12 unit for assistance to establish support for the child. The  
13 unit shall adopt rules pursuant to chapter 17A to create an  
14 expedited process providing for the administrative  
15 modification of the existing order and establishment of  
16 support for the child, concurrently.

17 EXPLANATION

18 This bill makes changes in the administrative modification  
19 provisions for child support orders. The bill amends the  
20 eligibility criteria for the review and administrative  
21 modification of a child support order.

22 The bill requires a written request for review and  
23 administrative modification, and requires submission of  
24 supporting rather than verified documentation regarding a  
25 substantial change in circumstances. The bill also changes  
26 the basis for establishing a substantial change in  
27 circumstances from circumstances relating to a specific change  
28 in income to specified situations constituting a substantial  
29 change in circumstances.

30 The bill provides that if a parent is requesting an  
31 administrative modification based on any of the newly  
32 specified substantial changes in circumstances, the parent may  
33 also submit a request to the child support recovery unit for  
34 assistance in establishing support for the child. The bill  
35 directs the unit to adopt rules to provide for an expedited

1 process to provide for administrative modification of an  
2 existing order and establishment of support for the child,  
3 concurrently.

4 The bill also provides that if the unit is administratively  
5 modifying an existing order and establishing support,  
6 concurrently, the unit is to determine the child support  
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**Fiscal Services Division**  
**Legislative Services Agency**  
**Fiscal Note**

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SF 357 - Child Support Modification Due to Residence (LSB 1280 SV)  
Analyst: Jennifer Vermeer (Phone: (515) 281-4611) (jennifer.vermeer@legis.state.ia.us)  
Fiscal Note Version - New

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**Description**

Senate File 357 expands the circumstances under which parties may request administrative modification of child support orders. It also changes the documentation requirements from "verified documentation" to "supporting documentation."

**Background**

Under current law, an administrative modification may be requested only in the case of a "substantial change in circumstances." This is defined as a change of 50.0% or more in the income of a parent, which has existed for a minimum of three months and is expected to continue for an additional three months.

Senate File 357 broadens the definition by stating that a substantial change in circumstances "includes but is not limited to" the following:

- A 50.0% change in income, as specified in current law.
- The child moves to reside with the parent currently required to pay support and this change is expected to last at least six months.
- The parent to whom support is paid is incarcerated or dies.

**Assumptions**

There are currently 112,000 court orders for minor children which could be eligible for administrative modification. The Bill expands the circumstances under which an administrative modification may be requested. It specifically expands the definition to include the change in the residence of the child and the other circumstances listed in the bullets above.

However, the language also expands beyond the circumstances listed by stating that the definition "includes but is not limited to" those items specified in the Bill. This expands the definition to an unknown number of circumstances that would likely need to be defined by the Child Support Recovery Unit by rule. What additional circumstances may be included in that definition is unknown at this time.

It is unknown how many administrative modifications may be requested under the expanded definition in the Bill. Due to this uncertainty, a range is included. It is assumed that between 5.0% and 10.0% of the court orders for minor children will request an administrative modification under the new definition. This results in 5,600 to 11,000 requests for administrative modification in FY 2006.

The Child Support Recovery Unit already provides administrative modifications for children receiving Family Investment Program assistance or Medicaid benefits. This is assumed to be approximately 13.5% of those requesting modifications. Since this function is already performed for this population, this reduces the number requesting modification to 4,900 to 9,800 in FY 2006.

It is assumed that one Child Support Recovery Unit FTE position handles 228.6 cases per year. This results in an increase of 21.5 to 43.0 FTE positions in FY 2006. Each FTE position is

assumed to have a cost of \$55,000 per year for salaries, benefits, and support costs. The State match rate is 33.24%. This results in an estimated State cost of \$393,000 to \$786,000 for FY 2006.

The number of administrative modifications is estimated to increase in FY 2007 as it becomes more well known. It is assumed that 10.0% to 15.0% of total court orders for minor children (9,800 to 15,000) will request an administrative modification. Using the same assumptions as above, this results in an estimated State cost of \$787,000 to \$1.2 million and 43.0 to 64.5 FTE positions in FY 2007.

### **Fiscal Impact**

The estimated fiscal impact of SF 357 is an increase of between \$393,000 and \$786,000 in State funds and 21.5 to 43.0 FTE positions for FY 2006. The estimated fiscal impact for FY 2007 is an increase of between \$787,000 and \$1.2 million in State funds and 43.0 to 64.5 FTE positions.

### **Source**

Department of Human Services

/s/ Holly M. Lyons

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March 30, 2005

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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Fraiese Co-chair  
Larson co-chair  
Kreiman  
Bronkhorst

Succeeded By  
① HF ~~405~~ 357

SSB# 1155  
Judiciary

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED CITIZENS'  
AIDE/OMBUDSMAN BILL)

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

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## STATE OF IOWA



WILLIAM P. ANGRICK II  
CITIZENS' AIDE/OMBUDSMAN

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## Memorandum In Support Of Legislative Proposal

**To: Members of the Iowa General Assembly, 2005 Session**  
**From: William P. Angrick II, Citizens' Aide/Ombudsman**

The purpose of this bill is to allow a parent to request the child support recovery unit to administratively modify a support order, when the child for whom the parent is ordered to pay support resides with and is being cared for by that parent for a period reasonably expected to last at least six months.

In addition to the federal requirement that the State review and adjust child support orders every three years or less, the State must also have procedures under which it will conduct a review and adjust outside of the required review cycle, if the requesting party can demonstrate a substantial change in circumstances. These procedures are provided for in Iowa Code chapter 252H, subchapter III, Administrative Modification. Section 252H.4 authorizes the child support recovery unit to adopt rules to establish the criteria and procedures for administrative modifications. By rule the unit currently modifies existing support orders when a parent provides verified documentation of a substantial change in circumstances which indicates a change of at least fifty-percent in the net income of a parent and the change is due to financial circumstances which have existed for a minimum of three months and can reasonably be expected to exist for an additional three months. The unit may also modify an order under other circumstances, including adding a child to the order, setting a support amount when the original order did not set support or set it at zero or when the non-custodial parent is no longer a minor, or correcting clerical or typographical errors.

Situations occur under which a parent who is ordered to pay support for a child will assume responsibility for providing a home and care for the child. These situations may result from a juvenile court order, the incarceration or death of the parent to whom support is paid, or by agreement of the parents or parties to the order. However, the State will not stop collecting support for that child until the parent obtains an order to suspend or modify the order. For some parents, time delay and financial resources pose obstacles to seek a judicial remedy on their own.

This bill provides that the administrative modification process can be used to modify or terminate an order when these situations occur. The bill amends section 252H.18A to specify that these situations constitute "a substantial change in circumstances." It also requires that the change be reasonably expected to last at least six months. This time frame is similar to other durational requirements for reviewing and adjusting orders.

The bill also deletes the requirement that a parent submit verified documentation of a substantial change in circumstances and instead requires the parent to provide supporting documentation. The word "verified" suggests the parent must provide documentation prepared under oath or affidavit. There may be documents that are not verified but that provide credible information to support the parent's request. This bill allows the parent to provide such supporting documents. The unit can still assess the sufficiency of the documentation and determine whether to proceed with the modification.

In addition, the bill requires the unit to establish an expedited procedure by which the parent who requests the administrative modification of an existing order may at the same time request assistance to establish an order for the child who is now residing with and being cared for by the parent. The expedited procedure is more timely and efficient since it enables the unit to process both requests and determine the support obligations for both parents or parties concurrently. The bill also requires the unit to determine the support obligations of both parents or parties in the manner required for split physical care situations under the child support guidelines