UNIFORM INTERSTATE FAMILY SUPPORT ACT

Drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

ANNUAL CONFERENCE
MEETING IN ITS ONE-HUNDRED-AND-FIRST YEAR
IN SAN FRANCISCO, CALIFORNIA
JULY 30 - AUGUST 6, 1992

WITH PREFATORY NOTE AND COMMENTS

Approved by the American Bar Association
Boston, Massachusetts, February 9, 1993

UNIFORM INTERSTATE FAMILY SUPPORT ACT

The Committee that acted for the National Conference of Commissioners on Uniform State Laws in preparing the Uniform Interstate Family Support Act was as follows:

ALLAN G. RODGERS, Massachusetts Law Reform Institute, 69 Canal Street, Boston, MA 02114, Chair
MARLIN J. APPELWICK, Suite 122, 2611 N.E. 125th Street, Seattle, WA 98125
GEORGE C. BERK, Suite 902, 58 Weybosset Street, Providence, RI 02903
K. KING BURNETT, P.O. Box 910, 115 Broad Street, Salisbury, MD 21803
FLORENCE NELSON CRISP, P.O. Box 7146, 119 West 3rd Street, Greenville, NC 27835
FLOYD R. GIBSON, U.S. Court of Appeals, 837 U.S. Courthouse, 811 Grand Avenue, Kansas City, MO 64106
ORLAN L. PRESTEGARD, 430 Orchard Drive, Oregon, WI 53575
MARY ELLEN SEAWORTH, P.O. Box 34, 421 Demers Avenue, Grand Forks, ND 58206
JOEL D. SIEGAL, 19th Floor, 1180 Raymond Boulevard, Newark, NJ 07102
PAUL M. KURTZ, University of Georgia, School of Law, Athens, GA 30602, Co-Reporter
JOHN J. SAMPSON, University of Texas, School of Law, 727 East 26th Street, Austin, TX 78705, Co-Reporter
DWIGHT A. HAMILTON, Suite 600, 1600 Broadway, Denver, CO 80202, President (Member Ex Officio)
WILLIAM J. PIERCE, 1505 Roxbury Road, Ann Arbor, MI 48104, Executive Director
DAVID PEEPLES, Court of Appeals, Bexar County Justice Center, Suite 3200, 300 Dolorosa, San Antonio, TX 78205, Chair, Division F (Member Ex Officio)

Review Committee

BATTLE R. ROBINSON, Family Court Building, 10 The Circle, P.O. Box 609, Georgetown, DE 19947, Chair
KATHRYN L. HOVE, 2371 Highway 1, N.E., Solon, IA 52333
STEVEN P. RADER, Office of Legal Affairs, 101 Blair Drive, Raleigh, NC 27603

Advisors to Drafting Committee

GORDON F. BAILEY, JR., Eastern Regional Interstate Child Support Association
MICHAEL E. BARBER, American Bar Association
PAULA ROBERTS, Center for Law and Social Policy

Additional Participants

JEFFREY BALL, Staff Attorney, U.S. Commission on Interstate Child Support

MARGARET CAMPBELL HAYNES, Chairperson, U.S. Commission on Interstate Child Support
ELEANOR LANDSTREET, American Bar Association, Center for Children and the Law
BETH MASON, Member, U.S. Commission on Interstate Child Support
BETSY MATHESON, U.S. Office of Child Support Enforcement
PETER K. MUNSON, Sherman, TX
SUSAN F. PAIKIN, National Child Support Enforcement Association
MARILYN RAY SMITH, National Child Support Enforcement Association
HARRY L. TINDALL, Vice-Chairperson, U.S. Commission on Interstate Child Support

Final, approved copies of this Act in printed pamphlet or computer diskette form (Word Perfect only) and copies of all Uniform and Model Acts and other printed matter issued by the Conference may be obtained from:

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS
676 North St. Clair Street, Suite 1700
Chicago, Illinois 60611
(312) 915-0195

UNIFORM INTERSTATE FAMILY SUPPORT ACT

TABLE OF CONTENTS

ARTICLE 1. GENERAL PROVISIONS

ARTICLE 2. JURISDICTION

Part A. Extended Personal Jurisdiction

Part B. Proceedings Involving Two or More States

Part C. Reconciliation with Orders of Other States

ARTICLE 3. CIVIL PROVISIONS OF GENERAL APPLICATION

Part C. Registration and Modification of Child Support Order

ARTICLE 7. DETERMINATION OF PARENTAGE

ARTICLE 8. INTERSTATE RENDITION

ARTICLE 9. MISCELLANEOUS PROVISIONS

UNIFORM INTERSTATE FAMILY SUPPORT ACT

PREFATORY NOTE

I. Background Information

Congressional legislation in 1975, 1984, and 1988 has had a major impact on state child support enforcement law, both substantive and procedural. Not only did Congress mandate that states adopt child support guidelines, but it also required the states to establish child support enforcement procedures such as wage withholding, tax intercepts, and credit reporting. In addition, federal law has begun to invade the area of substantive rules for child support; for example, the Bradley Amendment, adopted in 1986, prohibits retroactive reduction of a child support arrearage stemming from a court order.

To respond to these new developments, in 1988 the Conference established a Drafting Committee to review the Uniform Reciprocal Enforcement of Support Act (URESA) and its revised version (RURESA), and to adopt revisions to URESA or propose a free-standing act on the subject of child support enforcement. Some version of URESA or RURESA has been adopted in all states and therefore is familiar to people who work in this field. After reviewing the congressional legislation of the 1980's and the Model Interstate Income Withholding Act drafted in 1984 by the American Bar Association and the National Conference of State Legislatures, the Committee originally decided that the interstate aspects of child support enforcement could be adequately addressed through amendments to RURESA.

At the Conference's Annual Meeting in the summer of 1989, the Drafting Committee presented for first reading some limited initial changes to RURESA. Subsequently, after obtaining the views of numerous persons who are familiar with URESA, the Committee decided to revise the Act much more extensively, and presented those changes for another first reading at the Conference's 1990 Annual Meeting.

Following receipt of extensive comments at the 1990 Annual Meeting and from numerous groups and individuals, the Drafting Committee recommended, and the Executive Committee of the Conference decided, that final approval of the revised URESA should be delayed until the Conference's 1992 Annual Meeting because that timetable would coincide with the work of the U.S. Commission on Interstate Child Support. Throughout 1991 and 1992, the Drafting Committee continued to work on the Act, in conjunction with numerous knowledgeable Advisors and Observers, including five persons who also served as members of the U.S. Commission.

The Drafting Committee and Executive Committee determined that the Act should have a new name -- the Uniform Interstate Family Support Act (UIFSA). This new Act is intended to completely revise and replace URESA and RURESA.

A description of the major changes proposed to be made in RURESA presented by UIFSA follows below.

II. Proposed Changes

A. In General

1. TERMINOLOGY. The terminology of URESA and RURESA has been retained as much as possible to ease the transition to the new act, i.e., "responding" and "initiating" state. One notable change is the substitution of the term "tribunal" for "court," in recognition of the fact that many states have created administrative agencies to establish, enforce, and modify child support.

2. REORGANIZATION. The Act has been reorganized into a more logical and understandable order than found in RURESA. The order in which civil and criminal proceedings are dealt with is reversed, which more accurately reflects the frequency and utility of those approaches. Within civil proceedings, separate articles have been created for provisions common to all types of actions (Article 3); for the establishment of support (Article 4); for the enforcement of a support order of another state without registration (Article 5); for the enforcement and modification of support orders after registration (Article 6); and for the determination of parentage (Article 7). In addition, new jurisdictional provisions (Article 2) establish uniform long-arm jurisdiction over nonresidents in order to facilitate one-state proceedings whenever possible.

3. RECIPROCITY NOT REQUIRED. Reciprocity of laws between states is no longer required because at present all states have quite similar laws, and the enacting state should enforce a support obligation irrespective of another state's law. Nonetheless, consistent with past practice URESA, RURESA and all substantially similar state laws are deemed equivalent to UIFSA for purposes of interstate actions (Section 101(7), (16)). This means that any of these acts can be used if different states have different versions in effect, which should help ease the transition to the new Act.

4. LONG-ARM JURISDICTION. The Act contains a broad provision for asserting long-arm jurisdiction to give the tribunals in the home state of the supported family the maximum possible opportunity to secure personal jurisdiction over an absent respondent (Section 201), thereby converting what otherwise would be a two-state proceeding into a one-state lawsuit. Where jurisdiction over a

nonresident is obtained, the tribunal may obtain evidence, provide for discovery, and elicit testimony through use of the "information route" sections of the Act (Sections 202, 316 and 318).

B. Establishing a Support Order

1. FAMILY SUPPORT. The revision makes clear that the Act may be used only for proceedings involving the support of a child or spouse of the support obligor, and not to enforce other duties such as support of a parent (Section 101(2) and (18)). Under URESA child support and spousal support are treated identically. However, under UIFSA spousal support is modifiable in the interstate context only after such a request is forwarded to the original issuing state from another state (Sections 205 and 206).

2. LOCAL LAW. URESA provides a somewhat complex choice of law for establishment of duties of support, i.e., the law of the state where the obligor was present for the period during which support is sought. Otherwise that Act generally refers to the law of the forum. The new Act provides that the procedures and law of the forum apply, with some significant additions or exceptions:

(a) Certain procedures are prescribed for interstate cases even if they are not consistent with local law, e.g., the contents of interstate petitions (Sections 311 and 602); the nondisclosure of certain sensitive information (Section 312); authority to award fees and costs including attorneys fees (Section 313); elimination of certain testimonial immunities (Section 314); and limits on the assertion of nonparentage as a defense to support enforcement (Section 315).

(b) Visitation issues cannot be raised in child support proceedings (Section 305(d)).

(c) Special rules for the interstate transmission of evidence and discovery are added to help place the maximum amount of information before the deciding tribunal. These procedures are available even in one-state cases in which the tribunal asserts long-arm jurisdiction over a nonresident (Sections 202, 316, and 318).

(d) The choice of law for the interpretation of registered orders is that of the state issuing the underlying support order. If there are different statutes of limitation for enforcement, however, the longer one applies (Section 604).

3. ONE-ORDER SYSTEM. Under the present URESA, the majority of support proceedings are de novo. Even when an existing order of one state is "registered" in a second state, the registering state often asserts the right to modify the registered order. This means that more than one valid support order can be in

effect in more than one state. Under UIFSA, the principle of continuing, exclusive jurisdiction is introduced into the Act for the first time; this aims, so far as possible, to allow only one support order to be effective at any one time. This principle is carried out in Sections 204 (rules for resolving actions pending in two or more states); 205 and 206 (rules for determining which tribunal has continuing, exclusive jurisdiction over an order); 207 (reconciliation with orders issued before the effective date of the Act); and 208 (multiple orders for two or more families supported by the same obligor).

4. EFFICIENCY. A number of improvements are made to the former Act to streamline interstate proceedings:

(a) Proceedings may be initiated by or referred to administrative agencies rather than to courts in those states that use those agencies to establish support orders (Section 101(22)).

(b) Initiation of an interstate case in the initiating state is expressly made ministerial rather than a matter of court adjudication or review. Further, a party in the initiating state may file an action directly in the responding state (Section 301(c)).

(c) Forms which are federally mandated for use in certain interstate cases must be used in all interstate cases for transmission of information from the initiating to the responding state (Section 311(b)), and the information in those forms is declared to be admissible evidence (Section 316(b)).

(d) Authority is provided for the transmission of information and documents through electronic and other modern means of communication (Section 316(e)).

(e) A tribunal may permit an out-of-state party or witness to be deposed or to testify by telephone conference (Section 316(f)).

(f) Tribunals are required to cooperate in the discovery process for use in a tribunal in another state (Section 318).

(g) A tribunal and a support enforcement agency providing services to a supported family must keep the parties informed about all important developments in a case (Sections 305 and 307).

(h) A registered support order is confirmed and immediately enforceable unless the respondent files a written objection within 20 days after service and sustains that objection (Sections 603 and 607).

5. PRIVATE ATTORNEYS. In support actions the Act explicitly authorizes parties to retain private legal counsel (Section 309), as well as to use the services of state support enforcement agency (Section 307(a)). It expressly takes no position on whether the support enforcement agency assisting a supported family establishes an attorney-client relationship with the applicant (Section 307(c)).

6. INTERSTATE PARENTAGE. UIFSA clearly authorizes establishment of parentage in an interstate proceeding, even if not coupled with a proceeding to establish support (Section 701).

C. Enforcing a Support Order

1. DIRECT ENFORCEMENT. The Act provides two direct enforcement procedures that do not require assistance from a tribunal. First, the support order may be mailed directly to an obligor's employer in another state (Section 501), which triggers wage withholding by that employer without the necessity of a hearing unless the employee objects. Second, the Act provides for direct administrative enforcement by the support enforcement agency of the obligor's state (Section 502).

2. REGISTRATION. The registration process of the Act is modeled after that procedure originated in RURESA, but is far more comprehensive. All judicial enforcement activity must begin with the registration of the existing support order in the responding state (Sections 601 through 604). However, the registered order continues to be the order of the issuing state, and the role of the responding state is limited to enforcing that order except in the very limited circumstances where modification is permitted (Sections 605 through 608).

D. Modifying a Support Order

1. REGISTRATION. A party (whether obligor or obligee) seeking to modify an existing child support order is directed to follow the identical procedure for registration as when enforcement is sought. Any combination sequence is allowable, e.g., registration for enforcement and later modification, or, contemporaneous modification and enforcement.

2. MODIFICATION LIMITED. Under RURESA most courts have held that a responding state can modify a support order for which enforcement has been sought. Except under narrowly defined fact circumstances, under the new Act the only tribunal that can modify a support order is the one having continuing, exclusive jurisdiction over the order. If the parties no longer reside in the issuing state, a tribunal with personal jurisdiction over both parties or with power given by

agreement of the parties, has jurisdiction to modify (Sections 205, 206, 603(c), 609 through 612).

E. Parentage

It is not entirely clear whether RURESA provides for an interstate determination of parentage without also seeking establishment of support. UIFSA clearly states that interstate determination of parentage is authorized. It may be accomplished without an accompanying establishment of support, or in a contemporaneous manner to both determine parentage and establish support. The Act provides no substantive or procedural alterations to the existing law of the forum with regard to determination of parentage.

UNIFORM INTERSTATE FAMILY SUPPORT ACT

ARTICLE 1. GENERAL PROVISIONS

SECTION 101. DEFINITIONS. In this [Act]:

(1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.

(2) "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.

(3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.

(4) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a [petition] or comparable pleading for support and, if a child is less than six months old, the state in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month or other period.

(5) "Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this State.

(6) "Income-withholding order" means an order or other legal process directed to an obligor's employer [or other debtor], as defined by [the income-withholding law of this State], to withhold support from the income of the obligor.

(7) "Initiating state" means a state in which a proceeding under this [Act] or a law substantially similar to this [Act], the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act is filed for forwarding to a responding state.

(8) "Initiating tribunal" means the authorized tribunal in an initiating state.

(9) "Issuing state" means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(10) "Issuing tribunal" means the tribunal that issues a support order or renders a judgment determining parentage.

(11) "Law" includes decisional and statutory law and rules and regulations having the force of law.

(12) "Obligee" means:

(i) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

(ii) a state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or

(iii) an individual seeking a judgment determining parentage of the individual's child.

(13) "Obligor" means an individual, or the estate of a decedent:

(i) who owes or is alleged to owe a duty of support;

(ii) who is alleged but has not been adjudicated to be a parent of a child; or

(iii) who is liable under a support order.

(14) "Register" means to [record; file] a support order or judgment determining parentage in the [appropriate location for the recording or filing of foreign judgments generally or foreign support orders specifically].

(15) "Registering tribunal" means a tribunal in which a support order is registered.

(16) "Responding state" means a state to which a proceeding is forwarded under this [Act] or a law substantially similar to this [Act], the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

(17) "Responding tribunal" means the authorized tribunal in a responding state.

(18) "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

(19) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to

the jurisdiction of the United States. The term "state" includes an Indian tribe and includes a foreign jurisdiction that has established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this [Act].

(20) "Support enforcement agency" means a public official or agency authorized to seek:

(i) enforcement of support orders or laws relating to the duty of support;

(ii) establishment or modification of child support;

(iii) determination of parentage; or

(iv) to locate obligors or their assets.

(21) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

(22) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

COMMENT

Several additional terms are defined in this section as compared to the parallel RURESA § 2, which has fourteen entries. Many crucial definitions continue to be left to local law. For example, the definitions of "child" and "child support order" provided by subsections (1) and (2) refer to "the age of majority" without further elaboration. The exact age at which a child becomes an adult for different purposes is a matter for the law of each state, as is the age at which a parent's duty to

furnish child support terminates. Similarly, a wide variety of other terms of art are implicitly left to state law. For example, subsection (21) refers inter alia to "health care, arrearages, or reimbursement ...." All of these terms are subject to individualized definitions on a state-by-state basis.

Subsection (3) defines "duty of support" to mean the legal obligation to provide support before it has been reduced to judgment. It is broadly defined to include both prospective and retrospective obligations, to the extent they are imposed by the relevant state law.

In order to resolve certain conflicts in the exercise of jurisdiction, for limited purposes subsection (4) borrows the concept of the "home state" of a child from the Uniform Child Custody Jurisdiction Act, versions of which have been adopted in all 50 states, and from the federal Parental Kidnapping Prevention Act, 42 U.S.C. § 1738A.

Subsection (6) is written broadly so that states that direct income withholding by an obligor's employer based on "other legal process," as distinguished from an order of a tribunal, may have that "legal process" recognized as an "income-withholding order." Federal law requires that each state provide for income withholding "without the necessity of any application therefor ... or for any further action ... by the court or other entity which issued such order." 42 U.S.C. 666(b)(2). States have complied with this directive in a variety of ways. For example, New York provides a method for obtaining income withholding of court-ordered support by authorizing an attorney, clerk of court, sheriff or agent of the child support enforcement agency to serve upon the defaulting obligor's employer an "income execution for support enforcement." New York McKinney's C.P.L.R. 5241. This "other legal process" reportedly is the standard method for obtaining income withholding in that state, while the statutory provision for an income withholding order, C.P.L.R. 5242, is rarely used by either the courts or the litigants.

Subsections (7) and (8) define "initiating state" and "initiating tribunal" similarly to RURESA § 2(d). It is important to note, however, that this Act permits the direct filing of an interstate action in the responding state without an initial filing in an initiating tribunal. Thus, a petitioner in one state could seek to establish a support order in a second state by either filing in the second state's tribunal or seeking the assistance of the support enforcement agency in the second state.

The term "obligee" in subsection (12) is defined in a broad manner similar to RURESA § 2(f), which is consistent with common usage. In instances of spousal support, the person owed the duty of support and the person receiving the payments are almost always the same. Use of the term is more complicated in the context of a child support order. The child is the person to whom the duty of support is owed and therefore can be viewed as the ultimate obligee. However, "obligee" usually refers to

the individual receiving the payments. While this is most commonly the custodial parent or other legal custodian, the "obligee" may be a support enforcement agency which has been assigned the right to receive support payments in order to recoup AFDC (Aid to Families with Dependent Children, 42 U.S.C. § 601 et seq.). Even in the absence of such an assignment, a state may have an independent statutory claim for reimbursement for general assistance provided to a spouse, a former spouse, or a child of an obligor. The Act also uses "obligee" to identify an individual who is asserting a claim for support, not just for a person whose right to support is unquestioned, presumed, or has been established in a legal action. Subsection (13) provides the correlative definition of an "obligor," which includes an individual who is alleged to owe a duty of support as well as a person whose obligation has previously been determined.

Note that the definitions of "responding state" and "responding tribunal" in subsections (16) and (17) accommodate the direct filing of a petition under this Act without the intervention of an initiating tribunal. Both definitions acknowledge the possibility that there might be a responding state or tribunal in a situation where there is no initiating state or tribunal.

Subsection (19) withdraws the requirement of reciprocity demanded by RURESA and URESA. A state need not enact UIFSA in order for support orders issued by its tribunal to be enforced by other states. Public policy favoring such enforcement is sufficiently strong to warrant waiving any quid pro quo among the states. This policy extends to foreign jurisdictions, as well, which is intended to facilitate establishment and enforcement of orders from those jurisdictions. Specifically, if a support order from a Canadian province or Mexican state conforms to the principles of UIFSA, that order should be honored when it crosses the border in a spirit of comity.

Subsection (20), "Support Enforcement Agency," includes the state IV-D agency (Part IV-D, Social Security Act, 42 U.S.C. § 651 et seq.), and other state or local governmental entities charged with establishing or enforcing support.

Subsection (22) introduces a completely new term, "tribunal," which replaces the term "court" used in RURESA. With the advent of the federal IV-D program, a number of states have delegated various aspects of child support establishment and enforcement to quasi-judicial bodies and administrative agencies. UIFSA adopts the term "tribunal" to account for the breadth of state variations in dealing with support orders.

Throughout the Act the term refers to a tribunal of the enacting state unless expressly noted otherwise. To avoid confusion, however, when actions of tribunals of the enacting state and another state are contrasted in the same section or

subsection, the phrases "tribunal of this State" and "tribunal of another state" are used for the sake of clarity.

SECTION 102. TRIBUNAL[S] OF THIS STATE. The [court, administrative agency, quasi-judicial entity, or combination] [is the tribunal] [are the tribunals] of this State.

COMMENT

The enacting state must identify the courts, administrative agencies, or the combination of those entities, which constitute the tribunal authorized to deal with family support. In a particular state there may be several different such entities authorized to determine family support matters. It should be emphasized that this provision is not designed to address questions of venue, which are left to otherwise applicable state law.

SECTION 103. REMEDIES CUMULATIVE. Remedies provided by this [Act] are cumulative and do not affect the availability of remedies under other law.

COMMENT

The existence of procedures for interstate establishment, enforcement, or modification of support or a determination of parentage in this Act does not preclude the application of general state law. For example, a petitioner may decide to file an action directly in the state of residence of the respondent under the generally applicable support law, thereby submitting to the personal jurisdiction of that forum, and forego reliance on the Act.

ARTICLE 2. JURISDICTION

PART A. EXTENDED PERSONAL JURISDICTION

SECTION 201. BASES FOR JURISDICTION OVER NONRESIDENT. In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this State may exercise personal jurisdiction over a nonresident individual [or the individual's guardian or conservator] if:

(1) the individual is personally served with [citation, summons, notice] within this State;

(2) the individual submits to the jurisdiction of this State by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) the individual resided with the child in this State;

(4) the individual resided in this State and provided prenatal expenses or support for the child;

(5) the child resides in this State as a result of the acts or directives of the individual;

(6) the individual engaged in sexual intercourse in this State and the child may have been conceived by that act of intercourse;

[(7) the individual asserted parentage in the [putative father registry] maintained in this State by the [appropriate agency];] or

(8) there is any other basis consistent with the constitutions of this State and the United States for the exercise of personal jurisdiction.

COMMENT

Part A of Article 2 asserts what is commonly described as long-arm jurisdiction over a nonresident respondent for purposes of establishing a support order or determining parentage. Inclusion of this long-arm provision in this interstate Act is justified because even though the law of only the forum state is applicable, residents of two separate states are involved in the litigation and subject to the personal jurisdiction of the forum. The intent is to insure that every enacting state has a long-arm statute as broad as constitutionally permitted. In situations where the long-arm statute can be satisfied, the petitioner (either the obligor or the obligee) has two options under the Act: (1) utilize the long-arm statute to obtain personal jurisdiction over the respondent; or (2) initiate a two-state action under the succeeding provisions of UIFSA seeking to establish a support order in the respondent's state of residence.

Although not expressly stated, the long-arm statute provided by this section may be applied to spousal support as well as to child support. However, almost all of the specific provisions relate to child support orders or determinations of parentage. Only subsections (1), (2), and (8) are applicable to an action for spousal support asserting long-arm jurisdiction over a nonresident. The first two subsections are wholly noncontroversial insofar as an assertion of personal jurisdiction is concerned. This accords with the fact that very few states have chosen to enact specific domestic relations long-arm statutes and that the focus of UIFSA is primarily on child support. Moreover, assertion of personal jurisdiction under subsection (1), (2), or (8) will doubtless yield jurisdiction over all matters to be decided between the spouses, including division of property on divorce. Thus, the most obvious basis for asserting long-arm jurisdiction over spousal support, i.e., "last matrimonial domicile," is not included in Section 201 to avoid the potential problem of another instance of bifurcated jurisdiction. That is, a situation in which a tribunal could order a nonresident to pay spousal support, while not being authorized to personally bind that nonresident to a division of property on divorce.

Under RURESA, multiple support orders affecting the same parties are commonplace. UIFSA creates a structure designed to provide for only one support order at a time. This one order regime is facilitated and combined with a broad assertion of personal jurisdiction under this long-arm provision. The frequency of a two-state procedure involving the participation of tribunals in both states should be substantially reduced by the introduction of this long-arm statute.

Subsection (1) codifies the holding of **Burnham v. Superior Court**, 495 U.S. 604 (1990), which reaffirms the constitutional validity of asserting personal jurisdiction based on personal service within a state. Subsection (2) expresses the principle that a nonresident party concedes personal jurisdiction by seeking affirmative relief or by submitting to the jurisdiction by answering or entering an appearance. However, the power to assert jurisdiction over support issues under the Act does not extend the tribunal's jurisdiction to other matters. Subsections (1) through (8) are derived from a variety of sources, including the Uniform Parentage Act § 8, Texas Family Code § 11.051 (Vernon Supp. 1992), and New York Family Court Act § 154. Subsection (7) is bracketed because not all states maintain putative father registries. The factual situations catalogued in these subsections are appropriate and constitutionally acceptable grounds upon which to exercise personal jurisdiction over an individual.

Subsection (8) tracks the broad, catch-all provisions found in many state statutes, including California, Civ. P. Code § 410.10 (1973); New York, supra; and Texas, supra. It should be noted, however, that this provision, standing alone, was found to be inadequate to sustain a child support order under the facts presented in **Kulko v. Superior Court of California for San Francisco**, 436 U.S. 84 (1978).

SECTION 202. PROCEDURE WHEN EXERCISING JURISDICTION OVER NONRESIDENT. A tribunal of this State exercising personal jurisdiction over a nonresident under Section 201 may apply Section 316 (Special Rules of Evidence and Procedure) to receive evidence from another state, and Section 318 (Assistance with Discovery) to obtain discovery through a tribunal of another state. In all other respects, Articles 3 through 7 do not apply and the tribunal shall apply the procedural and substantive law of this State, including the rules on choice of law other than those established by this [Act].

COMMENT

Assertion of long-arm jurisdiction over a nonresident essentially results in a one-state proceeding, notwithstanding the fact that the parties reside in different states. With two exceptions, the provisions of UIFSA are not applicable in these proceedings. The first exception allows the tribunal to apply the special rules of evidence and procedure of Section 316 in order to facilitate decision-making when

one party resides in another state, even though that party is subject to the personal jurisdiction of the tribunal. In other words, the one-state case may utilize two-state procedures in the interests of economy, efficiency, and fair play. The same considerations account for the second exception; the two-state discovery procedures of Section 318 are made applicable to a one-state proceeding when a foreign tribunal can assist in that process. In all other situations, the substantive and procedural law of the state applies. However, to facilitate interstate exchange of information and to enable the nonresident to participate as fully as possible in the proceedings without the necessity of personally appearing in the forum state, this section expressly incorporates the special UIFSA rules on evidence and assistance with discovery procedures to long-arm cases.

PART B. PROCEEDINGS INVOLVING TWO OR MORE STATES

SECTION 203. INITIATING AND RESPONDING TRIBUNAL OF THIS STATE.

Under this [Act], a tribunal of this State may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

COMMENT

Part B of Article 2 tracks the traditional RURESA action, involving residents of separate states. In this situation, the initiating state does not assert personal jurisdiction over the nonresident, but instead forwards the case to another, responding state, which is to assert personal jurisdiction over its resident.

This section identifies the roles a tribunal of the forum may serve; as appropriate, it may act as either an initiating or a responding tribunal under UIFSA. Note that a tribunal can serve as a responding tribunal when there is no initiating tribunal in another state. This is to accommodate the direct filing of an action in a responding tribunal by a nonresident.

SECTION 204. SIMULTANEOUS PROCEEDINGS IN ANOTHER STATE.

(a) A tribunal of this State may exercise jurisdiction to establish a support order if the [petition] or comparable pleading is filed after a [petition] or comparable pleading is filed in another state only if:

(1) the [petition] or comparable pleading in this State is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;

(2) the contesting party timely challenges the exercise of jurisdiction in the other state; and

(3) if relevant, this State is the home state of the child.

(b) A tribunal of this State may not exercise jurisdiction to establish a support order if the [petition] or comparable pleading is filed before a [petition] or comparable pleading is filed in another state if:

(1) the [petition] or comparable pleading in the other state is filed before the expiration of the time allowed in this State for filing a responsive pleading challenging the exercise of jurisdiction by this State;

(2) the contesting party timely challenges the exercise of jurisdiction in this State; and

(3) if relevant, the other state is the home state of the child.

COMMENT

This section is similar to Section 6 of the Uniform Child Custody Jurisdiction Act. Under the one-order system established by UIFSA, it is necessary to provide a new procedure in order to eliminate the multiple orders so common under RURESA and URESA. This requires cooperation between, and deference by, sister-state tribunals in order to avoid issuance of competing support orders. To this end, tribunals are expected to take an active part in seeking out information about

support proceedings in other states concerning the same child. Depending on the circumstances, one or the other of two tribunals considering the same support obligation should decide to defer to the other. In this regard, UIFSA makes a significant departure from the approach adopted by the UCCJA, which chooses "first filing" as the method for resolving competing jurisdictional disputes. In the analogous situation, the federal Parental Kidnapping Prevention Act chooses the home state of the child to establish priority. Given the preemptive nature of the PKPA and the likelihood that custody and support are both involved in most cases, UIFSA opts for the federal method of resolving disputes between competing jurisdictional assertions by establishing a priority for the tribunal in the child's home state. If there is no home state, "first filing" controls.

SECTION 205. CONTINUING, EXCLUSIVE JURISDICTION.

(a) A tribunal of this State issuing a support order consistent with the law of this State has continuing, exclusive jurisdiction over a child support order:

(1) as long as this State remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) until each individual party has filed written consent with the tribunal of this State for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(b) A tribunal of this State issuing a child support order consistent with the law of this State may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to a law substantially similar to this [Act].

(c) If a child support order of this State is modified by a tribunal of another state pursuant to a law substantially similar to this [Act], a tribunal of this State loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this State, and may only:

(1) enforce the order that was modified as to amounts accruing before the modification;

(2) enforce nonmodifiable aspects of that order; and

(3) provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(d) A tribunal of this State shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to a law substantially similar to this [Act].

(e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

(f) A tribunal of this State issuing a support order consistent with the law of this State has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this State may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

COMMENT

This section is perhaps the most crucial provision in UIFSA. It establishes the principle that the issuing tribunal retains continuing, exclusive jurisdiction over the support order except in very narrowly defined circumstances. If all parties and the child reside elsewhere, the issuing state loses its continuing, exclusive jurisdiction -- which in practical terms means the issuing tribunal loses its authority to modify its order. The issuing state no longer has a nexus with the parties or child and, furthermore, the issuing tribunal has no current information about the circumstances of anyone involved. Note, however, that the one-order of the issuing tribunal remains valid and enforceable. That order is in effect not only in the issuing state and those states in which the order has been registered, but also may be

enforced in additional states in which the one-order is registered for enforcement after the issuing state loses its power to modify the original order, see Sections 601 through 604 (Registration and Enforcement of Support Order), infra. The one-order remains in effect until it is properly modified in accordance with the narrow terms of the Act, see Sections 609 through 612 (Registration and Modification of Child Support Order), infra.

Child support orders may be modified under certain, specific conditions: (1) on the agreement of both parties; or, (2) if all the relevant persons, that is, the obligor, the individual obligee, and the child, have permanently left the issuing state. Note that while subsection (b)(2) identifies the method for the release of continuing, exclusive jurisdiction by the issuing tribunal, it does not confer jurisdiction to modify on another tribunal. Modification requires that a tribunal have personal jurisdiction over both parties, as provided in Article 6, Part C. It should also be noted that nothing in this section is intended to deprive a court which has lost continuing, exclusive jurisdiction of the power to enforce arrearages which have accrued during the existence of a valid order.

With regard to spousal support, the issuing tribunal retains continuing, exclusive jurisdiction over an order of spousal support throughout the entire existence of the support obligation. The prohibition against a modification of an existing spousal support order of another state imposed by Sections 205 and 206 marks a radical departure from RURESA, which treats spousal and child support orders identically. Under UIFSA, modification of spousal support is permitted in the interstate context only if an action is initiated outside of, and modified by the original issuing state. While UIFSA revises RURESA in this regard, in fact this will have a minimal effect on actual practice. Interstate modification of spousal support has been relatively rare under RURESA. Moreover, the prohibition of modification of spousal support is consistent with the basic principle that a tribunal should apply local law if at all possible to insure efficient handling of cases and to minimize choice of law problems. Avoiding conflict of law problems is almost impossible if spousal support orders are subject to modification in a second state. For example, there is wide variation among state laws on the effect on a spousal support order following the obligee's remarriage or nonmarital cohabitation with another person.

The distinction between spousal and child support is further justified because the standards for modification of child support and spousal support are so different. In most jurisdictions a dramatic improvement in the obligor's economic circumstances will have little or no relevance in an action seeking an upward modification of spousal support, while a similar change in an obligor's situation typically is a primary basis for an increase in child support. This disparity is founded on a policy choice that post-divorce success should benefit the obligor's child, but not an ex-spouse.

SECTION 206. ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER BY TRIBUNAL HAVING CONTINUING JURISDICTION.

(a) A tribunal of this State may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(b) A tribunal of this State having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply Section 316 (Special Rules of Evidence and Procedure) to receive evidence from another state and Section 318 (Assistance with Discovery) to obtain discovery through a tribunal of another state.

(c) A tribunal of this State which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

COMMENT

This section is the correlative of the continuing, exclusive jurisdiction asserted in the preceding section. In subsection (a) the enacting state recognizes the continuing, exclusive jurisdiction of other tribunals over support orders and authorizes the initiation of requests for modification to the issuing state.

Subsection (b) confirms the power to modify a child support order of the issuing state, provided it retains a sufficient nexus with its order. UIFSA defines that nexus as any situation in which the child or at least one of the parties continues to reside in the issuing state.

Subsection (c) directs tribunals of the enacting state to adhere to the one-order-at-a-time system.

PART C. RECONCILIATION WITH ORDERS OF OTHER STATES

SECTION 207. RECOGNITION OF CHILD SUPPORT ORDERS.

(a) If a proceeding is brought under this [Act], and one or more child support orders have been issued in this or another state with regard to an obligor and a child, a tribunal of this State shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If only one tribunal has issued a child support order, the order of that tribunal must be recognized.

(2) If two or more tribunals have issued child support orders for the same obligor and child, and only one of the tribunals would have continuing, exclusive jurisdiction under this [Act], the order of that tribunal must be recognized.

(3) If two or more tribunals have issued child support orders for the same obligor and child, and more than one of the tribunals would have continuing, exclusive jurisdiction under this [Act], an order issued by a tribunal in the current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued must be recognized.

(4) If two or more tribunals have issued child support orders for the same obligor and child, and none of the tribunals would have continuing, exclusive jurisdiction under this [Act], the tribunal of this State may issue a child support order, which must be recognized.

(b) The tribunal that has issued an order recognized under subsection (a) is the tribunal having continuing, exclusive jurisdiction.

COMMENT

This section establishes a priority scheme for recognition and enforcement of existing multiple orders regarding the same obligor, obligee or obligees, and the same child. Even assuming universal enactment of UIFSA, many years will pass before its one-order system will be completely in place. Part C is designed to span the gulf between the one-order system and the multiple order system in place under RURESA. If only one order has been issued, it is to be treated as if it had been issued under UIFSA if it was issued under a statute which is consistent with the principles of UIFSA. But, multiple orders issued under RURESA number in the tens of thousands; it can be reasonably anticipated that those orders, covering the same parties and child, will continue in effect far into the future.

Assuming multiple orders exist, none of which can be distinguished as being in conflict with the principles of UIFSA, an order issued by a tribunal of the child's home state is given the higher priority. If more than one of these orders exists, priority is given to the order most recently issued. If none of the priorities apply, the forum tribunal is directed to issue a new order. Note, however, that multiple orders issued by different states may be entitled to full faith and credit. While this section cannot and does not attempt to interfere with that constitutional directive with regard to accrued arrearages, it may and does establish a system for prospective enforcement of competing orders.

SECTION 208. MULTIPLE CHILD SUPPORT ORDERS FOR TWO OR MORE OBLIGEES. In responding to multiple registrations or [petitions] for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this State shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this State.

COMMENT

Multiple orders may involve two or more families of the same obligor. Although all such orders are entitled to future enforcement, practical difficulties are often presented. For example, full enforcement of all orders may exceed the maximum allowed for income withholding, i.e., the federal statute, 42 U.S.C. 666(b)(1), requires that states cap the maximum to be withheld in accordance with the federal consumer credit code limitations on wage garnishment, 15 U.S.C. 1673(b). In order to allocate resources between competing families, the Act refers to state law. The basic principle is that one or more foreign orders for the support of the obligor's families are of equal dignity and should be treated as if all of the multiple orders had been issued by a tribunal of the forum state.

SECTION 209. CREDIT FOR PAYMENTS. Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this State.

COMMENT

This section is derived from RURESA § 31 (Application of Payments). Because of the multiple orders possible under RURESA, that section was primarily concerned with insuring that payments made on one order were credited towards the amounts due on other orders. For example, full payment of $300 on an order of State C earned pro tanto discharge of that amount on a $200 order of State A and a $400 order of State B. Under the one-order system of UIFSA, the obligor will be ordered to pay only one sum-certain amount; the issuing tribunal should control the methods employed to account for payment of that order from multiple sources of enforcement. Until that scheme is fully in place, however, it is necessary to continue to mandate pro tanto credit for actual payments made against all existing orders.

ARTICLE 3. CIVIL PROVISIONS OF GENERAL APPLICATION

SECTION 301. PROCEEDINGS UNDER THIS [ACT].

(a) Except as otherwise provided in this [Act], this article applies to all proceedings under this [Act].

(b) This [Act] provides for the following proceedings:

(1) establishment of an order for spousal support or child support pursuant to Article 4;

(2) enforcement of a support order and income-withholding order of another state without registration pursuant to Article 5;

(3) registration of an order for spousal support or child support of another state for enforcement pursuant to Article 6;

(4) modification of an order for child support or spousal support issued by a tribunal of this State pursuant to Article 2, Part B;

(5) registration of an order for child support of another state for modification pursuant to Article 6;

(6) determination of parentage pursuant to Article 7; and

(7) assertion of jurisdiction over nonresidents pursuant to Article 2, Part A.

(c) An individual [petitioner] or a support enforcement agency may commence a proceeding authorized under this [Act] by filing a [petition] in an initiating tribunal for forwarding to a responding tribunal or by filing a [petition] or a

comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the [respondent].

COMMENT

This section is a "road map" of the types of actions authorized by UIFSA. Although such a section may be unusual for a uniform act, it is especially justified in this instance because the majority of those persons administering the Act are not attorneys and will doubtless find such assistance to be useful.

Subsection (a) mandates application of the general provisions of this article to all UIFSA actions.

Generally, subsection (b) identifies the fact that orders for spousal support and child support are to be dealt with identically under the Act. However, subsection (b)(5) announces that the modification provisions are limited to child support orders; the Act does not provide for a second state to modify a spousal support order.

Subsection (c) establishes the basic two-state procedure contemplated by the Act. The initiating responding procedure is derived from the two-state procedure under RURESA; the direct filing by either an individual or a support enforcement agency is new to this Act.

SECTION 302. ACTION BY MINOR PARENT. A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

COMMENT

This section is derived from RURESA § 13. A minor parent may maintain an action under UIFSA without the appointment of a guardian ad litem, even if the law of the jurisdiction requires a guardian for an in-state case. If a guardian or legal representative has been appointed, however, he or she may act on behalf of the minor's child in seeking support.

SECTION 303. APPLICATION OF LAW OF THIS STATE. Except as otherwise provided by this [Act], a responding tribunal of this State:

(1) shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this State and may exercise all powers and provide all remedies available in those proceedings; and

(2) shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this State.

COMMENT

Historically states have insisted on application of forum law to support cases whenever possible. A key principle of UIFSA is that a tribunal will have the same powers in an action involving interstate parties as it has in an intrastate case. This inevitably means that the Act is not self-contained; rather, it is supplemented by the support law of the forum. To insure the efficient processing of the huge number of interstate support cases, it is vital that decision-makers apply familiar rules of substantive and procedural law to those cases.

SECTION 304. DUTIES OF INITIATING TRIBUNAL. Upon the filing of a [petition] authorized by this [Act], an initiating tribunal of this State shall forward three copies of the [petition] and its accompanying documents:

(1) to the responding tribunal or appropriate support enforcement agency in the responding state; or

(2) if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.

COMMENT

Under RURESA § 14, the initiating tribunal is required to make a preliminary finding of the existence of a support obligation, but in fact, observance of this obligation is erratic across the nation. Under UIFSA, by contrast, the role of

the initiating tribunal consists merely of the ministerial function of forwarding the documents. See **Mossburg v. Coffman**, 6 Kan. App. 2d 428, 629 P.2d 745 (1981); **Neff v. Johnson**, 391 S.W.2d 760 (Tex. Civ. App. 1965).

SECTION 305. DUTIES AND POWERS OF RESPONDING TRIBUNAL.

(a) When a responding tribunal of this State receives a [petition] or comparable pleading from an initiating tribunal or directly pursuant to Section 301(c) (Proceedings Under this [Act]), it shall cause the [petition] or pleading to be filed and notify the [petitioner] by first class mail where and when it was filed.

(b) A responding tribunal of this State, to the extent otherwise authorized by law, may do one or more of the following:

(1) issue or enforce a support order, modify a child support order, or render a judgment to determine parentage;

(2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;

(3) order income withholding;

(4) determine the amount of any arrearages, and specify a method of payment;

(5) enforce orders by civil or criminal contempt, or both;

(6) set aside property for satisfaction of the support order;

(7) place liens and order execution on the obligor's property;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9) issue a [bench warrant; capias] for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the [bench warrant; capias] in any local and state computer systems for criminal warrants;

(10) order the obligor to seek appropriate employment by specified methods;

(11) award reasonable attorney's fees and other fees and costs; and

(12) grant any other available remedy.

(c) A responding tribunal of this State shall include in a support order issued under this [Act], or in the documents accompanying the order, the calculations on which the support order is based.

(d) A responding tribunal of this State may not condition the payment of a support order issued under this [Act] upon compliance by a party with provisions for visitation.

(e) If a responding tribunal of this State issues an order under this [Act], the tribunal shall send a copy of the order by first class mail to the [petitioner] and the [respondent] and to the initiating tribunal, if any.

COMMENT

This section revises RURESA §§ 9, 18, 19, 24, 25, and 26. It contains both mechanical functions, such as those in subsection (a); judicial functions, as in subsection (b), and substantive rules applicable to interstate cases, subsections (c) through (e). For example, subsection (b) supplies much more detail than RURESA §§ 24 and 26 to make explicit the wide range of specific powers of the responding tribunal. Because a responding tribunal may be an administrative agency rather than a court, the Act explicitly states that a tribunal is not granted powers that it does not otherwise possess under state law. For example, often authority to enforce orders by contempt is limited to courts.

Subsection (b)(7) purposefully avoids mention of the priority of liens issued under UIFSA. As is generally true under the Act, that priority will be determined by the otherwise applicable state law concerning support liens.

Subsection (b)(9) replaces RURESA § 16 (Jurisdiction By Arrest), which authorizes the responding tribunal "to obtain the body of the obligor" if the tribunal "believes that the obligor may flee ...." Under UIFSA, the physical seizure of an obligor is left to the procedures available under state law in other civil cases.

Subsection (c) clarifies that calculation sheets are to be included with the order in conjunction with the application of support guidelines. Local law generally requires that variation from the child support guidelines must be explained, see 42 U.S.C. § 667; this requirement is extended to all interstate cases.

Under subsection (d), an interstate support order may not be conditioned on compliance with a visitation order. While this may be at variance from state law governing intrastate cases, under a UIFSA action the petitioner generally is not present in the tribunal. This distinction justifies prohibiting visitation issues from being litigated in the context of a support proceeding.

Subsection (e) introduces the policy determination that the petitioner, the respondent, and the initiating tribunal, if any, shall be kept informed about actions taken by the responding tribunal. First class mail is sufficient for this purpose.

SECTION 306. INAPPROPRIATE TRIBUNAL. If a [petition] or comparable pleading is received by an inappropriate tribunal of this State, it shall forward the pleading and accompanying documents to an appropriate tribunal in this State or another state and notify the [petitioner] by first class mail where and when the pleading was sent.

COMMENT

This section directs a tribunal that receives UIFSA documents in error to forward them to the appropriate tribunal, whether located in the enacting state or elsewhere. This section is intended to apply both to initiating and responding tribunals which receive petitions which should be sent to other tribunals. Thus, if a tribunal is inappropriately designated as the initiating tribunal it shall forward the petition to the appropriate initiating tribunal either in the enacting state or elsewhere. Likewise, if a tribunal is inappropriate as the responding tribunal it shall forward the

petition to the appropriate responding tribunal either in the enacting state or elsewhere.

SECTION 307. DUTIES OF SUPPORT ENFORCEMENT AGENCY.

(a) A support enforcement agency of this State, upon request, shall provide services to a [petitioner] in a proceeding under this [Act].

(b) A support enforcement agency that is providing services to the [petitioner] as appropriate shall:

(1) take all steps necessary to enable an appropriate tribunal in this State or another state to obtain jurisdiction over the [respondent];

(2) request an appropriate tribunal to set a date, time, and place for a hearing;

(3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;

(4) within [two] days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice by first class mail to the [petitioner];

(5) within [two] days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the [respondent] or the [respondent's] attorney, send a copy of the communication by first class mail to the [petitioner]; and

(6) notify the [petitioner] if jurisdiction over the [respondent] cannot be obtained.

(c) This [Act] does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

COMMENT

This section is derived from RURESA §§ 12, 18, and 19.

Subsection (a) changes the focus of RURESA § 12 (Officials to Represent Obligee) from representation of an obligee to providing services to a [petitioner]. Care should be exercised in the use of terminology given this substantial alteration of past practice under RURESA. Not only may either the obligee or the obligor request services, but that request may be in the context of the establishment of an order, enforcement or review of an existing order, or a modification of that order (upwards or downwards). Thus, those states that use the term "petitioner" to refer to the "plaintiff" or "complainant" in the original caption of the case may wish to substitute the term "movant" in proceedings initiated after the establishment of a support order.

Subsection (b) responds to the complaint of many RURESA petitioners that they are not properly kept informed about the progress of their requests for services.

Subsection (c) neither creates nor rejects the establishment of an attorney-client or fiduciary relationship between the support enforcement agency and a petitioner receiving services from that agency. This controversial issue is left to otherwise applicable state law.

SECTION 308. DUTY OF [ATTORNEY GENERAL]. If the [Attorney General] determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the [Attorney General] may order the agency to perform its duties under this [Act] or may provide those services directly to the individual.

COMMENT

This section continues the principle of RURESA § 18(c), under which the Attorney General of the State, or an alternative designated by the individual state

statute, is given oversight responsibility for the diligent provision of services by the support enforcement agency and the power to seek compliance with the Act.

SECTION 309. PRIVATE COUNSEL. An individual may employ private counsel to represent the individual in proceedings authorized by this [Act].

COMMENT

The right of a party to retain private counsel in an action to be brought under UIFSA is explicitly recognized. RURESA's failure to clearly recognize that power has led to some confusion and inconsistent decisions.

SECTION 310. DUTIES OF [STATE INFORMATION AGENCY].

(a) The [Attorney General's Office, State Attorney's Office, State Central Registry or other information agency] is the state information agency under this [Act].

(b) The state information agency shall:

(1) compile and maintain a current list, including addresses, of the tribunals in this State which have jurisdiction under this [Act] and any support enforcement agencies in this State and transmit a copy to the state information agency of every other state;

(2) maintain a register of tribunals and support enforcement agencies received from other states;

(3) forward to the appropriate tribunal in the place in this State in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this [Act]

received from an initiating tribunal or the state information agency of the initiating state; and

(4) obtain information concerning the location of the obligor and the obligor's property within this State not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

COMMENT

This section, based on RURESA § 17 (State Information Agency), continues the information-gathering duties of the central agency.

Subsection (b)(4) does not provide independent access to the information sources or to the governmental documents listed. Because states have different requirements and limitations concerning such access based on differing views of the privacy interests of individual citizens, the agency is directed to use all lawful means under the relevant state law to obtain and disseminate information.

SECTION 311. PLEADINGS AND ACCOMPANYING DOCUMENTS.

(a) A [petitioner] seeking to establish or modify a support order or to determine parentage in a proceeding under this [Act] must verify the [petition]. Unless otherwise ordered under Section 312 (Nondisclosure of Information in Exceptional Circumstances), the [petition] or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security

number, and date of birth of each child for whom support is sought. The [petition] must be accompanied by a certified copy of any support order in effect. The [petition] may include any other information that may assist in locating or identifying the [respondent].

(b) The [petition] must specify the relief sought. The [petition] and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

COMMENT

This section is derived from RURESA § 11; it establishes the basic requirements for the drafting and filing of interstate pleadings and should be read in conjunction with § 312, which provides for the confidentiality of certain information if disclosure is likely to result in harm to a party or a child.

Subsection (b) provides authorization for the use of the federally authorized forms promulgated in connection with the IV-D child support enforcement program and mandates substantial compliance with those forms. Although the use of other forms is not prohibited, statutory preapproval of forms that substantially conform to those mandated by federal law will help to standardize documents, with a concomitant improvement in the efficient processing of UIFSA actions.

SECTION 312. NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES. Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this [Act].

COMMENT

Public awareness of and sensitivity to the dangers of domestic violence has significantly increased since the promulgation of RURESA. This section authorizes confidentiality in instances where there is a serious risk of domestic violence or child abduction. Although local law generally governs the conduct of the forum tribunal, state law may not provide for maintaining secrecy about the exact whereabouts of a litigant or other information ordinarily required to be disclosed under state law, e.g., Social Security number of the parties or the child. If so, this provision creates a confidentiality provision which is particularly appropriate in the light of the intractable problems associated with interstate (as opposed to intrastate) childnapping.

SECTION 313. COSTS AND FEES.

(a) The [petitioner] may not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under Article 6 (Enforcement and Modification of Support Order After Registration), a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

COMMENT

This section is derived from RURESA § 15 (Costs and Fees), which authorizes fees and costs to be assessed against "the obligor." In recognition of the fact that under UIFSA either the obligor or the obligee may file suit, subsection (a) permits either to file without payment of a filing fee or other costs. Subsection (b), however, continues the RURESA rule that only the support obligor may be assessed the specified costs and fees.

Subsection (c) provides a sanction to deal with a frivolous contest regarding compliance with an interstate withholding order, registration of a support order, or comparable delaying tactics regarding an appropriate enforcement remedy.

SECTION 314. LIMITED IMMUNITY OF [PETITIONER].

(a) Participation by a [petitioner] in a proceeding before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the [petitioner] in another proceeding.

(b) A [petitioner] is not amenable to service of civil process while physically present in this State to participate in a proceeding under this [Act].

(c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this [Act] committed by a party while present in this State to participate in the proceeding.

COMMENT

This section significantly expands RURESA § 32. Under subsection (a), direct or indirect participation in a UIFSA proceeding does not subject a petitioner to an assertion of personal jurisdiction over the petitioner by the forum state in other litigation between the parties. A petition for affirmative relief under UIFSA limits the jurisdiction of the tribunal to the boundaries of the support proceeding.

Similarly, subsection (b) grants a litigant immunity from service of process during the time a party is physically present in a state for a UIFSA action. The immunity provided is limited, however, and is not comparable to diplomatic immunity. This is clear from reading subsection (c) in conjunction with the other

subsections; subsection (c) withholds immunity from civil litigation unrelated to the support action stemming from contemporaneous acts committed by a party while present in the state for the support litigation. For example, if a petitioner is involved in an automobile accident or a contract dispute over the cost of lodging while present in the state, the immunity provided by this section is inapplicable.

SECTION 315. NONPARENTAGE AS DEFENSE. A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this [Act].

COMMENT

Arguably this section does no more than restate the basic principle of res judicata. However, a great variety of state laws exists regarding presumptions of parentage and available defenses after a prior determination of parentage. This section is intended neither to discourage nor encourage collateral attacks in situations in which the law of a foreign jurisdiction is at significant odds with local law. For example, this section mandates that a parentage decree rendered by another tribunal is not subject to collateral attack in a UIFSA proceeding except on a fundamental constitutional ground such as lack of jurisdiction over a party or a comparable denial of due process in the previous proceeding. If a collateral attack is permissible on a parentage decree under the law of the issuing jurisdiction, such an action must be pursued in the appropriate forum and not in the UIFSA proceeding.

Similarly, the law of the issuing state may provide for a determination of parentage based on certain specific acts of the obligor acknowledging parentage as a substitute for a decree, e.g., signing the child's birth certificate or publicly acknowledging a duty of support after receiving the child into his home. The Act also is neutral regarding a collateral attack on such a parentage determination; the responding tribunal must give the same effect to such an act of acknowledgment of parentage as it would receive in the issuing state. The consistent theme of this section is that a collateral attack cannot be made in a UIFSA proceeding.

SECTION 316. SPECIAL RULES OF EVIDENCE AND PROCEDURE.

(a) The physical presence of the [petitioner] in a responding tribunal of this State is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(b) A verified [petition], affidavit, document substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

(c) A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.

(d) Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least [ten] days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.

(e) Documentary evidence transmitted from another state to a tribunal of this State by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under this [Act], a tribunal of this State may permit a party or witness residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this State shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

(g) If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under this [Act].

(i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this [Act].

COMMENT

This section combines RURESA §§ 9, 19, 21, 22, and 23; and, provides additional innovative methods for gathering evidence in interstate cases.

Subsections (b) through (f) greatly expand on RURESA § 23 (Rules of Evidence). The intent is to eliminate as many potential hearsay problems as possible in interstate litigation because usually the out-of-state party and that party's witnesses do not appear in person at the hearing.

Subsection (d) provides a simplified means for proving health care expenses related to the birth of the child. Because ordinarily these charges are not in dispute, this is designed to obviate the cost of having health care providers appear in person or of obtaining affidavits of business records from each provider.

Subsections (e) and (f) encourage tribunals and litigants to take advantage of modern methods of communication in interstate support litigation.

Subsection (g) codifies the rule in effect in many states that in civil litigation an adverse inference may be drawn from a litigant's silence. See, e.g., **In re Matter of Joseph P.**, 487 N.Y.S.2d 685 (Fam. Ct. 1985); Pa. Cons. Stats. Ann., Tit. 23, § 5104(c) (1991) (if "any party refuses to submit to the tests, the court may resolve the question of paternity, parentage or identity of a child against the party...."); 9 N.J. Stats. Ann. 17-51(d) (1991) ("refusal to submit to blood tests or genetic tests, or both, may be admitted into evidence and shall give rise to the presumption that the results of the tests would have been unfavorable to the interests of the party refusing"); La. Rev. Stats., Tit. 9, § 396(A) (1992) ("if any party refuses to submit to such tests, the court may resolve the question of paternity against such party....").

SECTION 317. COMMUNICATIONS BETWEEN TRIBUNALS. A tribunal of this State may communicate with a tribunal of another state in writing, or by telephone or other means, to obtain information concerning the laws of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state. A tribunal of this State may furnish similar information by similar means to a tribunal of another state.

COMMENT

This section is derived from UCCJA § 7(d) (Inconvenient Forum), which authorizes communications between courts in order to facilitate determination under that Act. Much broader cooperation between tribunals is permitted under this Act to expedite establishment and enforcement of the support order of either the forum or of the sister state.

SECTION 318. ASSISTANCE WITH DISCOVERY. A tribunal of this State may:

(1) request a tribunal of another state to assist in obtaining discovery; and

(2) upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

COMMENT

This section takes another logical step to facilitate interstate cooperation by enlisting the power of the forum to assist a tribunal of another state with the discovery process. The grant of authority is quite broad, enabling the tribunal of the enacting state to fashion its remedies to facilitate discovery consistent with local practice.

SECTION 319. RECEIPT AND DISBURSEMENT OF PAYMENTS. A support enforcement agency or tribunal of this State shall disburse promptly any

amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

COMMENT

The first sentence of this section is derived from RURESA § 29 (Additional Duty of Initiating Court). The second sentence confirms the duty of the agency or tribunal to furnish payment information in interstate cases.

ARTICLE 4. ESTABLISHMENT OF SUPPORT ORDER

SECTION 401. [PETITION] TO ESTABLISH SUPPORT ORDER.

(a) If a support order entitled to recognition under this [Act] has not been issued, a responding tribunal of this State may issue a support order if:

(1) the individual seeking the order resides in another state; or

(2) the support enforcement agency seeking the order is located in another state.

(b) The tribunal may issue a temporary child support order if:

(1) the [respondent] has signed a verified statement acknowledging parentage;

(2) the [respondent] has been determined by or pursuant to law to be the parent; or

(3) there is other clear and convincing evidence that the [respondent] is the child's parent.

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to Section 305 (Duties and Powers of Responding Tribunal).

COMMENT

This section authorizes a tribunal of the responding state to issue temporary and permanent support orders binding on an obligor over whom the tribunal has personal jurisdiction. It should be emphasized that UIFSA does not permit such orders to be issued when another support order exists and another tribunal has

continuing, exclusive jurisdiction over the matter. See § 205 (Continuing, Exclusive Jurisdiction) and § 206 (Enforcement and Modification of Support Order by Tribunal Having Continuing Jurisdiction).

ARTICLE 5. DIRECT ENFORCEMENT OF ORDER OF ANOTHER STATE WITHOUT REGISTRATION

SECTION 501. RECOGNITION OF INCOME-WITHHOLDING ORDER OF ANOTHER STATE.

(a) An income-withholding order issued in another state may be sent by first class mail to the person or entity defined as the obligor's employer under [the income-withholding law of this State] without first filing a [petition] or comparable pleading or registering the order with a tribunal of this State. Upon receipt of the order, the employer shall:

(1) treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this State;

(2) immediately provide a copy of the order to the obligor; and

(3) distribute the funds as directed in the withholding order.

(b) An obligor may contest the validity or enforcement of an income-withholding order issued in another state in the same manner as if the order had been issued by a tribunal of this State. Section 604 (Choice of Law) applies to the contest. The obligor shall give notice of the contest to any support enforcement agency providing services to the obligee and to:

(1) the person or agency designated to receive payments in the income-withholding order; or

(2) if no person or agency is designated, the obligee.

COMMENT

Direct recognition by the obligor's employer of a withholding order issued by another state has long been sought by support enforcement associations and other advocacy groups. In 1984 Congress mandated that all states adopt procedures for enforcing income-withholding orders of sister states. As a result, the Child Support Project of the American Bar Association and the National Conference of State Legislatures promulgated a Model Interstate Income Withholding Act in 1985. The Model Act has not been widely enacted.

Subsection (a) directs an employer of the enacting state to recognize a withholding order of a sister state, subject to the employee's right to contest the validity of the order or its enforcement. At present, agencies in several states have adopted a procedure of sending direct withholding requests to out-of-state employers, but this marks the first official sanction of such practices. A recent study by the federal General Accounting Office notes that employers in a second state routinely recognize withholding orders of sister states despite an apparent lack of statutory authority to do so. This enactment recognizes actual practice.

Subsection (a) does not define "regular on its face," but the term should be liberally construed, see **U.S. v. Morton**, 467 U.S. 822 (1984) ("legal process regular on its face"). The rules governing intrastate procedure and defenses for withholding orders will apply to interstate orders. Thus, subsection (a) makes clear that employers who refuse to recognize out of state withholding orders will be subjected to whatever remedies are otherwise available under state law.

Similarly, subsection (b) incorporates the law regarding defenses an alleged obligor may raise to an intrastate withholding order into the interstate context. Generally, states have accepted the IV-D requirement that the only allowable defense is a "mistake of fact." 42 U.S.C. § 666(b)(4)(A). This apparently includes "errors in the amount of current support owed, errors in the amount of accrued arrearage ... or mistaken identity of the alleged obligor" while excluding "other grounds, such as the inappropriateness of the amount of support ordered to be paid, changed financial circumstances of the obligor, or lack of visitation." H.R. Rep. No. 98-527, 98th Cong., 1st Sess. 33 (1983). The latter claims must be pursued in a separate legal action in the state having continuing, exclusive jurisdiction over the support order, not in a UIFSA proceeding.

SECTION 502. ADMINISTRATIVE ENFORCEMENT OF ORDERS.

(a) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this State.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this State to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this [Act].

COMMENT

This section authorizes summary enforcement of a sister state child support order through any administrative means available for local orders. Under subsection (a), any interested party in another state, necessarily including a private attorney or a support enforcement agency, may forward a support order or income-withholding order to a support enforcement agency of the enacting state.

Subsection (b) directs the support enforcement agency in the enacting state to employ the enacting state's regular administrative procedures to process the out-of-state order. Thus, a local employer accustomed to dealing with the local agency need not learn a new procedure in order to comply with an out-of-state order.

ARTICLE 6. ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER AFTER REGISTRATION

PART A. REGISTRATION AND ENFORCEMENT OF SUPPORT ORDER

SECTION 601. REGISTRATION OF ORDER FOR ENFORCEMENT. A support order or an income-withholding order issued by a tribunal of another state may be registered in this State for enforcement.

COMMENT

Part A of Article 6 greatly expands the procedure for the registration of foreign support orders available under RURESA §§ 35-40. The common practice of initiating a new suit for the establishment of a support order irrespective of the fact that there is an existing order for support will become obsolete under UIFSA. The fact that RURESA permits (really encourages) initiation of a new suit in those circumstances led to the multiple support order system that UIFSA is designed to eliminate.

Under the one-order system of UIFSA, the only existing order is to be enforced. Registration of that order in the responding state is the first step to enforcement by a tribunal of that state. Rather than being an optional device as is the case under RURESA, registration for enforcement under UIFSA is the primary method for interstate enforcement by a tribunal. If a prior support order has been validly issued, only that order is to be enforced against the obligor in the absence of very narrow strictly defined fact situations in which an existing order may be modified. See §§ 609 through 612. Additionally, until that order is modified, it is fully enforceable in the responding state.

Registration should be employed if the purpose is enforcement. Although registration not accompanied by a request for affirmative relief is not prohibited, the Act does not contemplate registration as serving a purpose in itself.

SECTION 602. PROCEDURE TO REGISTER ORDER FOR ENFORCEMENT.

(a) A support order or income-withholding order of another state may be registered in this State by sending the following documents and information to the [appropriate tribunal] in this State:

(1) a letter of transmittal to the tribunal requesting registration and enforcement;

(2) two copies, including one certified copy, of all orders to be registered, including any modification of an order;

(3) a sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage;

(4) the name of the obligor and, if known:

(i) the obligor's address and social security number;

(ii) the name and address of the obligor's employer and any other source of income of the obligor; and

(iii) a description and the location of property of the obligor in this State not exempt from execution; and

(5) the name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(b) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

(c) A [petition] or comparable pleading seeking a remedy that must be affirmatively sought under other law of this State may be filed at the same time as the

request for registration or later. The pleading must specify the grounds for the remedy sought.

COMMENT

This section outlines the mechanics for registration of a sister state order. Subsection (c) warns that if a particular enforcement remedy must be specifically sought under local law, the same is required in interstate cases. However, the authorization of a later request contemplates that interstate pleadings may be liberally amended to conform to local practice.

SECTION 603. EFFECT OF REGISTRATION FOR ENFORCEMENT.

(a) A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this State.

(b) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this State.

(c) Except as otherwise provided in this article, a tribunal of this State shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

COMMENT

Subsection (a) is derived from RURESA § 39(a), which states that "filing constitutes registration ...." Although the registration procedure under UIFSA is nearly identical to that of RURESA, the underlying intent of registration is radically different. Under RURESA, once an order of State A is registered in State B, it becomes an order of the latter. Under UIFSA, the order continues to be a State A order, which is to be enforced by a tribunal of State B. Although State B's rules of evidence and procedure apply, except as supplemented or specifically superseded by the Act, the order itself remains subject to the continuing, exclusive jurisdiction of State A so long as the requirements for that authority set forth in Section 205 remain intact.

Subsection (b) is derived from RURESA § 40(a). Although RURESA specifically subjects a registered order to "proceedings for reopening, vacating, or staying as a support order of this State," these remedies are not authorized under UIFSA. While a foreign support order is to be enforced and satisfied in the same manner as if it had been issued by a tribunal of the registering state, the order to be enforced remains an order of the issuing state. Conceptually, the responding state is enforcing the order of another state, not its own order. Any request for relief that requires application of the continuing, exclusive jurisdiction of the issuing tribunal must be sought in the issuing forum.

Subsection (c) mandates enforcement of the registered order. See §§ 606 through 608. This is at sharp variance with the RURESA § 40 practice, which states that "the registered foreign support order shall be treated in the same manner as a support order issued by a court of this State." This language was generally interpreted as converting the foreign order into an order of the registering state. Once the registering court concludes that it is enforcing its own order, the next logical step is the conclusion that the order may be modified, which results in another version of the multiple order system. UIFSA mandates an end to this process, except as modification is authorized in this article, see §§ 609 through 612.

Because under UIFSA there is only one order in existence at any one time, that order is enforceable in a responding state irrespective of whether such an order might be modified. That is, if neither the child nor the parties continue to reside in the issuing state, the issuing tribunal loses its continuing, exclusive jurisdiction over its child support order. Nonetheless, the order continues to be fully enforceable until the potential for modification actually occurs in accordance with the strict terms for such an action as set forth in Part C of this article, §§ 609-612.

SECTION 604. CHOICE OF LAW.

(a) The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.

(b) In a proceeding for arrearages, the statute of limitation under the laws of this State or of the issuing state, whichever is longer, applies.

COMMENT

This section identifies situations in which local law is inapplicable. For example, under subsection (a) an order for the support of a child until age 21 must be recognized and enforced in that manner in a state in which the duty of support of a child ends at age 18. See **Gonzalez-Goengaga v. Gonzalez**, 426 So.2d 1106 (Fla. App. 1983); **Taylor v. Taylor**, 122 Cal. App. 3d 209, 175 Cal. Rptr. 716 (1981).

Subsection (b) contains a similar choice of law provision that may diverge from local law. Whichever state's statute of limitations is longer is to be applied. In interstate cases arrearages will often have accumulated over a considerable period of time before enforcement is perfected. The obligor should not gain an undue benefit from the choice of residence if the forum state has a short statute of limitations for arrearages.

PART B. CONTEST OF VALIDITY OR ENFORCEMENT

SECTION 605. NOTICE OF REGISTRATION OF ORDER.

(a) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. Notice must be given by first class, certified, or registered mail or by any means of personal service authorized by the law of this State. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) The notice must inform the nonregistering party:

(1) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this State;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within [20] days after the date of mailing or personal service of the notice;

(3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and

(4) of the amount of any alleged arrearages.

(c) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to [the income-withholding law of this State].

COMMENT

Part B of Article 6 provides the procedure for the nonregistering party to contest registration of an order, either because the order is allegedly invalid, superseded, or no longer in effect, or because the enforcement remedy being sought is opposed by the nonregistering party.

This section provides that the nonregistering party must be fully informed of the effect of registration. After such notice is given, absent a successful contest by the nonregistering party, the order will be confirmed and future contest will be precluded.

SECTION 606. PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF REGISTERED ORDER.

(a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this State shall request a hearing within [20] days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or

the amount of any alleged arrearages pursuant to Section 607 (Contest of Registration or Enforcement).

(b) If the nonregistering party fails to contest the validity or enforcement of the registered order in a timely manner, the order is confirmed by operation of law.

(c) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties by first class mail of the date, time, and place of the hearing.

COMMENT

Subsection (a) is derived in part from RURESA § 40(b), under which the "obligor" is directed to contest the registration of a foreign order within a short period of time. This procedure is continued, but the terminology is changed to "nonregistering party" because either the obligor or the obligee may seek to register a foreign support order. Moreover, the subsection is philosophically very different from RURESA § 40, which directs that a registered order "shall be treated in the same manner as a support order issued by a court of this state." A contest of the fundamental provisions of the registered order is not permitted "in this State." The nonregistering party must return to the issuing state to prosecute such a contest, and then only as the law of that state permits. The procedure adopted here is akin to the prohibition of the nonparentage defense found in Section 315; that is, raising the issue in a UIFSA proceeding is prohibited, but no attempt is made to preclude the issue from being litigated in another, more appropriate forum if otherwise allowable by that forum. On the other hand, the respondent may assert defenses such as "payment" or "the obligation has terminated" to allegations of past noncompliance with the registered order. Similarly, a constitutionally-based attack may always be asserted, i.e., an alleged lack of personal jurisdiction over a party by the issuing tribunal. There is no defense, however, to the registration of a valid foreign support order.

Subsection (b) precludes an untimely contest of a registered support order. As noted above, the nonregistering party is free to seek redress in the issuing state from the tribunal with continuing, exclusive jurisdiction over the support order.

Subsection (c) directs that a hearing be scheduled when the nonregistering party contests some aspect of the registration. At present, federal regulations govern

the allowable time frames for contesting income withholding in IV-D cases. See 42 U.S.C. § 666(b). Further codification of that process is unwise.

SECTION 607. CONTEST OF REGISTRATION OR ENFORCEMENT.

(a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(1) the issuing tribunal lacked personal jurisdiction over the contesting party;

(2) the order was obtained by fraud;

(3) the order has been vacated, suspended, or modified by a later order;

(4) the issuing tribunal has stayed the order pending appeal;

(5) there is a defense under the law of this State to the remedy sought;

(6) full or partial payment has been made; or

(7) the statute of limitation under Section 604 (Choice of Law) precludes enforcement of some or all of the arrearages.

(b) If a party presents evidence establishing a full or partial defense under subsection (a), a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this State.

(c) If the contesting party does not establish a defense under subsection (a) to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

COMMENT

Subsection (a) places the burden on the nonregistering party to assert narrowly defined defenses to registration of a support order.

If the obligor is liable for current support, under subsection (b) the tribunal must enter an order to enforce that obligation. Proof of arrearages must result in enforcement; under the Bradley Amendment, 42 U.S.C. § 666(a)(10), all states are required to treat child support payments as final judgments as they come due (or lose federal funding). Therefore, such arrearages are not subject to retroactive modification.

SECTION 608. CONFIRMED ORDER. Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

COMMENT

The policy determination that foreign support orders may need to be confirmed by the forum tribunal is found in URESA § 40, but the process of confirmation is not explained. Under UIFSA, confirmation of an order may be the result of operation of law because of a failure to contest or an unsuccessful contest after a hearing. Either method precludes raising any issue that could have been asserted in a hearing. Confirmation of a foreign support order validates both the terms of the order and the asserted arrearages. See **Chapman v. Chapman**, 205 Cal. App. 3d 253, 252 Cal. Rptr. 359 (1988).

PART C. REGISTRATION AND MODIFICATION OF CHILD SUPPORT ORDER

SECTION 609. PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF ANOTHER STATE FOR MODIFICATION. A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this State in the same manner provided in Part A of this article if the order has not been registered. A [petition] for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

COMMENT

Part C of Article 6 deals with situations in which it is necessary for a registering state to modify the existing child support order of another state. As long as the issuing state maintains its continuing, exclusive jurisdiction over its order, a registering sister state is precluded from modifying that order. This is a very significant departure from the multiple-order, multiple-modification system of RURESA. However, if the issuing state no longer has a sufficient interest in the modification of its order because neither the child nor the parties continue to reside there, under appropriate circumstances a registering state may assume the power to modify. Note that authority to modify is limited to child support orders; the Act does not contemplate modification of spousal support orders.

A petitioner wishing to register a support order of another state for purposes of modification must conform to the general requirements for pleadings in Section 311 (Pleadings and Accompanying Documents), and follow the procedure for registration set forth in Section 602 (Procedure To Register Order for Enforcement). If the tribunal has the requisite jurisdiction over the parties as established in § 611, modification may be sought in conjunction with registration and enforcement, or at a later date after the order has been registered, confirmed, and enforced.

SECTION 610. EFFECT OF REGISTRATION FOR MODIFICATION. A tribunal of this State may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this State, but the registered order may be modified only if the

requirements of Section 611 (Modification of Child Support Order of Another State) have been met.

COMMENT

An order registered for purposes of modification may be enforced in the same manner as an order registered for purposes of enforcement. But, the power of the forum tribunal to modify a child support order of another tribunal is limited by the specific factual preconditions set forth in § 611.

SECTION 611. MODIFICATION OF CHILD SUPPORT ORDER OF ANOTHER STATE.

(a) After a child support order issued in another state has been registered in this State, the responding tribunal of this State may modify that order only if, after notice and hearing, it finds that:

(1) the following requirements are met:

(i) the child, the individual obligee, and the obligor do not reside in the issuing state;

(ii) a [petitioner] who is a nonresident of this State seeks modification; and

(iii) the [respondent] is subject to the personal jurisdiction of the tribunal of this State; or

(2) an individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed a written consent in the issuing tribunal providing that a tribunal of this State may modify the support order and assume continuing, exclusive jurisdiction over the order.

(b) Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this State and the order may be enforced and satisfied in the same manner.

(c) A tribunal of this State may not modify any aspect of a child support order that may not be modified under the law of the issuing state.

(d) On issuance of an order modifying a child support order issued in another state, a tribunal of this State becomes the tribunal of continuing, exclusive jurisdiction.

(e) Within [30] days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal which had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that earlier order has been registered.

COMMENT

When a foreign support order is enforced in a registering state under UIFSA, the rights of the parties affected have been litigated previously. Because the obligor already has had a day in court, an enforcement remedy may be summarily invoked. On the other hand, modification of an existing order presupposes a change in the rights of the parties. Therefore, even under RURESA more elaborate procedures were required by most states prior to the issuance of a modified order. These requirements are much more explicit and restrictive under UIFSA.

A support order registered under RURESA for the purpose of enforcement is treated as if originally issued by the registering tribunal. Most states have interpreted the RURESA registration provisions as also authorizing prospective modification of the registered order, see, e.g., **Lagerwey v. Lagerwey**, 681 P.2d 309 (Alaska 1984); **In re Marriage of Aron**, 224 Cal. App. 3d 1086 (1990); **MacFadden v. Martini**, 119 Misc. 2d 94, 463 N.Y.S.2d 674 (1983); **Pinner v. Pinner**, 33 N.C. App. 204, 234 S.E.2d 633 (1977). In sum, by its terms RURESA contemplates existence of multiple support orders, none of which is directly related

to any of the others. Although the issuing tribunal under RURESA retains continuing jurisdiction to modify its own order, that power is not exclusive. Tribunals in other states often assume jurisdiction to enter new orders or to modify an out-of-state support order.

Under UIFSA a tribunal may modify an existing child support order of another state only if certain quite limited conditions are met. First, the tribunal must have all the prerequisites for the exercise of personal jurisdiction required for rendition of an original support order. Second, one of the restricted fact situations described in subsection (a) must be present. This section, which is a counterpart to Section 205(b) (Continuing, Exclusive Jurisdiction), establishes the conditions under which the continuing jurisdiction of the issuing tribunal is released. The Uniform Child Custody Jurisdiction Act §§ 12-14 provides general principles for the judicial determination of an appropriate fact situation for subsequent modification of an existing custody order by another court. In contrast, UIFSA establishes a set of "bright line" rules for modification of an existing child support order.

Under UIFSA, registration is subdivided into distinct categories: registration for enforcement, for modification, or both. Subsection (a) contemplates modification of an existing child support order only under the limited circumstances described, thus eliminating multiple support orders to the maximum extent possible consistent with the principle of continuing, exclusive jurisdiction that pervades the Act. The continuing, exclusive jurisdiction of the issuing tribunal remains intact so long as one party or the child continue to reside in the issuing state, or unless the parties mutually agree to the contrary. This is also the standard for recognition of sister state custody orders under the federal Parental Kidnapping Prevention Act, 28 U.S.C. § 1738A. Once every individual party and the child leave the issuing state, the continuing, exclusive jurisdiction of the tribunal terminates, although the order remains in effect and enforceable until it is modified. If and when the order is modified by a tribunal of another state, the principle of continuing, exclusive jurisdiction is further ratified; the order of the modifying tribunal becomes the operative "only-order-in-effect."

Under subsection (a)(1), all persons affected by the initial order must have moved from the issuing state before a tribunal in a new forum may modify. In virtually all cases, the new forum will be the state of residence of either obligor or obligee. Proof of this may be made directly in the forum state; no purpose would be served by requiring the petitioner to return to the original issuing state for a document to confirm the fact that none of the relevant persons still lives there.

Note that subsection (a)(1) requires that the petitioner be a nonresident of the forum in which modification is sought and the respondent to be subject to the jurisdiction of that forum. This contemplates that the issuing state has lost continuing, exclusive jurisdiction and that the obligee may seek modification in the obligor's state of residence, or that the obligor may seek a modification in the

obligee's state of residence. This restriction attempts to achieve a rough justice between the parties in the majority of cases by preventing a litigant from choosing to seek modification in a local court to the marked disadvantage of the other party. For example, an obligor visiting the children at the residence of the obligee cannot be validly served with citation accompanied by a motion to modify the support order. Even though such personal service of the obligor in the obligee's home state is consistent with the jurisdictional requisites of **Burnham v. Superior Court**, 495 U.S. 604 (1990), the motion to modify does not fulfill the requirement of being brought by "a [petitioner] who is a nonresident of this State ...." The obligee is required to make that motion in a state other than that of his or her residence which has personal jurisdiction over the obligor. Most typically this will be the state of residence of the obligor. Similarly, fairness requires that an obligee seeking to modify or modify and enforce the existing order in the state of residence of the obligor will not be subject to a cross-motion to modify custody or visitation merely because the issuing state has lost its continuing, exclusive jurisdiction over the support order. The obligor is required to make that motion in a state other than that of his or her residence; most likely, the obligee's state of residence. Finally, note that if both parties have left the issuing state and now reside in the same state, this section is not applicable. Such a fact situation does not present an interstate matter and UIFSA does not apply. Rather, the issuing state has lost its continuing exclusive jurisdiction and the forum state, as the residence of both parties, should apply local law without regard to the interstate Act.

Subsection (a)(2) allows the parties to terminate the continuing jurisdiction of the issuing state by agreement even though one of the parties or the child maintains a significant nexus with the issuing state. In contrast to subsection (a)(1), this must be initiated and confirmed by the issuing state and a copy of such an agreement must be filed in the issuing tribunal.

Modification of child support under subsections (a)(1) and (a)(2) is distinct from custody modification under the federal Parental Kidnapping Prevention Act, 42 U.S.C. § 1738A, which provides that the court of continuing, exclusive jurisdiction may "decline jurisdiction." Similar provisions are found in the UCCJA, § 14. In those statutes the methodology for the declination of jurisdiction is not spelled out, but rather is left to the discretion of possibly competing courts for case-by-case determination. The privilege of declining jurisdiction, thereby creating the potential for a vacuum, is not authorized under UIFSA. Once an initial child support order is established, at all times thereafter there is an existing order in effect to be enforced. Even if the issuing court no longer has continuing, exclusive jurisdiction, its order remains fully enforceable until a court with modification jurisdiction issues a new order in conformance with this article.

Subsection (b) states that if the forum has modification jurisdiction because the issuing state has lost continuing jurisdiction, the proceedings will generally

follow local law with regard to modification of child support orders. However, subsection (c) prevents the modification of any final, nonmodifiable aspect of the original order. For example, if child support was ordered through age 21 in accordance with the law of the issuing state and the law of the forum state ends the support obligation at 18, modification by the forum tribunal may not affect the duration of the support order to age 21.

Subsection (d) provides that upon modification the new order becomes the one-order to be recognized by all UIFSA states, and the issuing tribunal acquires continuing, exclusive jurisdiction.

Finally, subsection (e) directs that the original issuing state be notified that it no longer is responsible to exercise its continuing, exclusive jurisdiction.

SECTION 612. RECOGNITION OF ORDER MODIFIED IN ANOTHER STATE. A tribunal of this State shall recognize a modification of its earlier child support order by a tribunal of another state which assumed jurisdiction pursuant to a law substantially similar to this [Act] and, upon request, except as otherwise provided in this [Act], shall:

(1) enforce the order that was modified only as to amounts accruing before the modification;

(2) enforce only nonmodifiable aspects of that order;

(3) provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and

(4) recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

COMMENT

Independent support orders relating to the same parties, a hallmark of RURESA, are replaced in UIFSA by deference to the support order of a sister state. This applies not just to the original order, but also to a modified child support order

issued by a second state under the standards established by Section 611 (Modification of Child Support Order of Another State). For the Act to function properly, the original issuing state must recognize and defer to such a modified order, and must regard its prior order as prospectively inoperative. Because the modifying tribunal lacks the authority to direct the original issuing state to release its continuing jurisdiction, each state must recognize this effect by enacting UIFSA.

Power is retained over post-modification by the original issuing tribunal for remedial actions directly connected to its now-modified order. A tribunal may enforce its subsequently modified order for violations of that order which occurred before the modification. Further, aspects of the original order that have become final or are not modifiable may be prospectively enforced by the issuing tribunal. For example, a contractual obligation to provide a college education trust fund for a child may be enforced under the law of the issuing state irrespective of the law of the modifying state.

ARTICLE 7. DETERMINATION OF PARENTAGE

SECTION 701. PROCEEDING TO DETERMINE PARENTAGE.

(a) A tribunal of this State may serve as an initiating or responding tribunal in a proceeding brought under this [Act] or a law substantially similar to this [Act], the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the [petitioner] is a parent of a particular child or to determine that a [respondent] is a parent of that child.

(b) In a proceeding to determine parentage, a responding tribunal of this State shall apply the [Uniform Parentage Act; procedural and substantive law of this State,] and the rules of this State on choice of law.

COMMENT

This article authorizes a "pure" parentage action in the interstate context, i.e., an action not joined with a claim for support. Either the mother or a man alleging to be the father of a child may bring such an action. More commonly, an action to determine parentage across state lines will also seek to establish a support order under the Act. See § 401 ([Petition] to Establish Support Order).

Parentage actions under UIFSA are to be treated identically to such actions brought in the responding state.

ARTICLE 8. INTERSTATE RENDITION

SECTION 801. GROUNDS FOR RENDITION.

(a) For purposes of this article, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this [Act].

(b) The governor of this State may:

(1) demand that the governor of another state surrender an individual found in the other state who is charged criminally in this State with having failed to provide for the support of an obligee; or

(2) on the demand by the governor of another state, surrender an individual found in this State who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with this [Act] applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

COMMENT

This section tracks RURESA § 5 (Interstate Rendition) with no substantive change. Virtually no controversy has been generated regarding this portion of RURESA. Arguably application of subsection (c) is problematical in situations in which the obligor neither was present in the demanding state at the time of the commission of the crime nor fled from the demanding state. The possibility that an individual may commit a crime in a state without ever being physically present there has elicited considerable discussion and some case law. See L. Brilmayer, "An Introduction to Jurisdiction in the American Federal System," 329-335 (1986)

(discussing minimum contacts theory for criminal jurisdiction); Rotenberg, "Extraterritorial Legislative Jurisdiction and the State Criminal Law," 38 Tex. L. Rev. 763, 784-87 (1960) (due process requires defendant's behavior must be predictably subject to state's criminal jurisdiction); cf. **Ex parte Boetscher**, 812 S.W.2d 600 (Tex. Crim. App. 1991) (Equal Protection Clause limits disparate treatment of nonresident defendants); **In re King**, 3 Cal.3d 226, 90 Cal. Rptr. 15, 474 P.2d 983 (1970, cert. denied 403 U.S. 931) (enhanced offense for nonresidents impacts constitutional right to travel).

SECTION 802. CONDITIONS OF RENDITION.

(a) Before making demand that the governor of another state surrender an individual charged criminally in this State with having failed to provide for the support of an obligee, the governor of this State may require a prosecutor of this State to demonstrate that at least [60] days previously the obligee had initiated proceedings for support pursuant to this [Act] or that the proceeding would be of no avail.

(b) If, under this [Act] or a law substantially similar to this [Act], the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act, the governor of another state makes a demand that the governor of this State surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the [petitioner] prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

COMMENT

This section tracks RURESA § 6 (Conditions of Interstate Rendition) without significant change. Interstate rendition remains the last resort for support enforcement, in part because a governor may exercise considerable discretion in deciding whether to honor a demand for an obligor.

ARTICLE 9. MISCELLANEOUS PROVISIONS

SECTION 901. UNIFORMITY OF APPLICATION AND CONSTRUCTION. This [Act] shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this [Act] among states enacting it.

SECTION 902. SHORT TITLE. This [Act] may be cited as the Uniform Interstate Family Support Act.

COMMENT

Renaming the Act reflects the dramatic departure from the structure of the earlier interstate reciprocal support acts, URESA and RURESA.

SECTION 903. SEVERABILITY CLAUSE. If any provision of this [Act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can be given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.

SECTION 904. EFFECTIVE DATE. This [Act] takes effect . . . . . .

SECTION 905. REPEALS. The following acts and parts of acts are hereby repealed:

(1) . . . . . .

(2) . . . . . .

(3) . . . . . .