

SB

51

<TARGET><BILL>SB 51</BILL><SUBJECT>SB
51</SUBJECT><COMM>SFIN29</COMM></TARGET>

STATE CAPITOL
P.O. Box 110001
Juneau, AK 99811-0001
907-465-3500
fax: 907-465-3532



550 West Seventh Avenue, Suite 1700
Anchorage, AK 99501
907-269-7450
fax 907-269-7461
www.Gov.Alaska.Gov
Governor@Alaska.Gov

Governor Bill Walker
STATE OF ALASKA

February 10, 2015

The Honorable Kevin Meyer
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Dear President Meyer:

Under the authority of Article III, Section 18 of the Alaska Constitution, I am transmitting a bill relating to the Uniform Interstate Family Support Act to update Alaska's laws on enforcement of family support orders. The Uniform Interstate Family Support Act (UIFSA) applies to actions relating to the establishment, modification, and enforcement of support orders and the determination of parentage in situations where the parties reside in different states or where one party resides in a foreign country.

In 1995, Alaska adopted the UIFSA (AS 25.25.010 - 25.25.903). In 2008, the National Conference of Commissioners on Uniform State Laws (also known as the Uniform Law Commission) approved amendments to UIFSA to incorporate the provisions of the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Convention), concluded at The Hague, November 23, 2007. The Convention contains provisions to establish uniform procedures for the processing of international child support orders.

In order to maintain compliance with federal law and treaty obligations and to continue to qualify for federal funding programs for child support matters, there is a compelling need to update Alaska's statutes this legislative session by adopting the 2008 amendments to the UIFSA.

The proposed bill is limited to amendments needed to integrate the 2008 updates to UIFSA into State law. The amendments must be effective by July 1, 2015, to comply with federal law

First, the bill would amend the UIFSA to remove the fiction that a "foreign country" is a state of the United States by amending existing text referring to a tribunal of this state to add "or a foreign country."

Second, the proposed bill would provide guidelines relating to the registration, enforcement, and modification of foreign support orders from countries that, like the United States, are parties to the Convention.

The Honorable Kevin Meyer
UFISA Bill Transmittal
February 10, 2015
Page 2

A third component of the bill would improve the enforcement of United States child support orders abroad and would ensure that children living in the United States would receive financial support due them from parents, wherever the parents reside.

These amendments would benefit Alaska families by ensuring stable and predictable enforcement of Alaska family support orders in other states and abroad. Additionally, it would ensure that residents of this state would be able to enforce support orders in this state, regardless of where they originated.

Presently, 11 states have enacted the 2008 amendments to the UIFSA; this number will grow considerably this year as other states work to enact the 2008 amendments. In addition, at least 12 states have introduced legislation this year to enact the 2008 changes; we expect others will follow. This bill has the support of Alaska's child support enforcement agency.

Additional information on the Uniform Interstate Family Support Act 2008 amendments prepared by the National Conference of Commissioners on Uniform State Laws is available from my staff.

I urge your prompt and favorable action on this measure.

Sincerely,

A handwritten signature in black ink that reads "Bill Walker". The signature is written in a cursive, flowing style.

Bill Walker
Governor

Enclosure



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Revenue
CHILD SUPPORT SERVICES DIVISION

Please Reply To:

MS _____
550 W. 7th Avenue, Suite 310
Anchorage, Alaska 99510-6699

Representative Bob Lynn
Chair, House State Affairs Committee
State Capitol, Room 108
Juneau, AK 99801

February 25, 2015

Re: *Uniform Interstate Family Support Act 2008 Amendments*
HB 106

Dear Chair Lynn and Committee Members:

During the House State Affairs committee hearing on February 20, the committee raised several questions about HB 106, the bill to amend Alaska's Uniform Interstate Family Support Act (UIFSA). This bill updates Alaska's UIFSA with the 2008 amendments by the Uniform Law Commission and focuses on enforcement of child support orders in international cases. Passage of the bill is vital for Alaska's children.

The committee inquired about the following areas:

1. How many international cases is the Child Support Services Division (CSSD) enforcing?

About 33% of CSSD's caseload is comprised of "intergovernmental" cases, i.e. cases with another state, jurisdiction, or foreign country. About 300 cases have one parent living in a foreign country with approximately 42% with foreign support orders, based on statistical sampling.

Nationwide, the federal Office of Child Support Enforcement (OCSE) estimates there are 150,000 pre-Convention cases with 26 reciprocating countries. Post-ratification of the Convention, OCSE estimates there will be 288,000 cases with 48 foreign Convention countries and expect that number to grow as more countries ratify the Convention.

2. Is there an example of an international case that this bill would help?

Example 1: Implementation of UIFSA 2008 and ratification of the Convention will save translation costs and delay for CSSD. CSSD recently had a foreign order and had to pay \$500 to translate the order. If the request for enforcement had been from a Convention country and UIFSA 2008 was in place, the foreign country would have been required to provide the English translation.

Example 2: In another case, a support modification was delayed two years due to jurisdiction disputes that UIFSA 2008 and the Convention would eliminate. Alaska issued a child support order and both parents left Alaska. The custodial parent and child moved to Japan and the non-custodial parent moved to Italy, although he claimed Virginia residency. The custodial parent requested a modification of the support order. UIFSA requires the modification to be completed by the non-requesting parent's state/country. Virginia would not modify the order because the non-custodial parent did not physically reside in its state. Italy would not modify the order. Ultimately, Alaska modified the order because neither Virginia nor Italy would, but this jurisdictional dispute resulted in a two-year delay in modifying the order.

3. Why does Alaska need to amend its UIFSA?

Amendment of Alaska's UIFSA is necessary for the United States to implement the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (Convention). It is also necessary to ensure the continued federal funding of Alaska's CSSD. CSSD is 66% federally funded and receives about \$19 million in federal funds to operate its program. The federal IV-D block grant for Temporary Assistance to Needy Families (TANF), about \$45 million, could also be at risk. See Uniform Law Commission commentary UIFSA 2008, p. 97-98, Exhibit 1; See also US Senate Report 113-137, Calendar No. 279, p. 40-44, Exhibit 2.

4. What are the terms of the Convention?

The Convention provides a structure for enforcement and modification of child and spousal support orders among the ratifying and acceding countries. A copy of the Convention is attached as Exhibit 3.

5. What countries have signed the Convention?

Thirty-three countries, including the United States, have signed or approved the Convention. See Status Table attached as Exhibit 4.

6. Did Mexico and Central America sign the Convention?

South American countries participated in the Convention negotiations. A country cannot ratify the Convention until it has implementing legislation in place. This ensures the country can actually

provide the child support services that the Convention requires. According to the federal Office of Child Support Enforcement, a number of South American countries are working toward that goal.

7. How does Alaska enforce orders from foreign counties that have not acceded or ratified the Convention?

Currently, registration and enforcement of a child support order issued by a foreign country is registered under AS 25.25.601-614 like orders from other states. This is because the current definition of "state" can include a foreign jurisdiction that has law substantially similar to our UIFSA law. House Bill 106 adds a new definition for "foreign country." The new article 7 addressing foreign child support orders from Convention countries will provide more efficient and effective methods for registering, enforcing and modifying child support orders from these foreign countries. For example, the foreign country must provide an English translation of the order. Also, the bill provides when Alaska can modify a foreign child support order. See Uniform Law Commission commentary, UIFSA 2008, p. 96, Exhibit 1.

8. What is the Congressional support for the Convention? Is it likely Congress will ratify the Convention?

Congress ratified the Convention in 2010. On September 29, 2010, the US Senate approved the Resolution of Advice and Consent regarding the Convention. Congress then passed the Preventing Sex Trafficking and Strengthening Families Act of 2014 requiring states to enact implementing legislation. This Congressional action requires Alaska to amend its UIFSA with the 2008 version and prompted introduction of HB106. Until all 50 states adopt UIFSA 2008, the President cannot complete the final steps to ratify the treaty and deposit the instruments of ratification with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, the depositary of the Convention. See State Department press releases, Exhibit 5; See US Senate Report 113-137, Calendar No. 279, excerpt pp 40-44, Exhibit 2.

9. Where is the legal requirement for states to adopt UIFSA 2008?

42 USC 666(f) as amended by PL 113-183

Attached is the Preventing Sex Trafficking and Strengthening Families Act of 2014 (Exhibit 6) and 42 USC 666(f) (Exhibit 7); See also US Senate Report 113-137, Calendar No. 279, excerpt p. 44, Exhibit 2.

10. What is the amount of federal funds at risk?

About \$19 million for CSSD, and possibly \$45 million for the federal IV-D block grant for Temporary Assistance to Needy Families (TANF).

CSSD is a federally-approved child support program, qualifying for 66% federal funds with a 34% state match. CSSD received about \$19 million in federal funds in FY2014. Alaska also received about \$45 million for the federal IV-D block grant for TANF.

11. What is the level of federal child support program funding at the local and national level?

\$19 million for Alaska's Child Support Services Division; \$5.7 billion nation-wide.

12. Where does it require Alaska to adopt UIFSA 2008 verbatim?

42 USC 666(f) as amended by PL 113-183 (Exhibits 3 and 4); *See also* US Senate Report 113-137, Calendar No. 279, p. 44, Exhibit 2.

We are working closely with the regional federal Office of Child Support Enforcement to ensure the bill wording is in compliance. The verbatim requirement ensures consistency among all the states and ensures all states have the necessary language to implement the Convention. We have reviewed the UIFSA 2008 amendments and are comfortable that the changes are limited and do not have any adverse effect on Alaskan interests.

13. What is the time deadline for states to adopt UIFSA 2008?

July 1, 2015 for Alaska.

Section 301(f)(3)(A) of PL 113-183 requires that UIFSA 2008 must be in effect in every state "no later than the effective date of laws enacted by the legislature of the State implementing such paragraph, but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act." *See* Exhibit 6.

14. What happens if one state does not enact UIFSA 2008?

The state risks loss of its federal child support funding and the United States may not be able to ratify the Convention. However, based on past history, it is highly likely that every state will adopt UIFSA 2008 by the deadline. In the 1990's, Congress required all states to adopt UIFSA 1996 and all states adopted it by 1998.

Currently, 12 states have enacted UIFSA 2008, 19 states (including Alaska) have introduced legislation, and the remaining states are in the bill drafting stage.

15. When does the new Article 7, addressing international child support orders from Convention countries, take effect?

Article 7 takes effect when the United States ratifies the Convention and deposits its instruments of ratification with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, the depository of the Convention. See Uniform Law Commission Introductory Comment, UIFSA 2008, Article 7, pp 97-98, Exhibit 1.


Sincerely,

DEPARTMENT OF REVENUE
CHILD SUPPORT SERVICES DIVISION

By: 

Carol Beecher
Director

CRAIG W. RICHARDS
ATTORNEY GENERAL

By: 

Stacy K. Steinberg
Chief Assistant Attorney General

Enclosures:

- Exhibit 1- Uniform Law Commission Commentary, UIFSA 2008 (Excerpt pp 96-98)
- Exhibit 2- US Senate Report 113-137, Calendar No. 279 (Excerpt pp 40-54)
- Exhibit 3-Convention
- Exhibit 4-Status Table
- Exhibit 5-US State Department Press Releases
- Exhibit 6-PL 113-183 (Excerpt)
- Exhibit 7-42 USC 666

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 4, 2015

SUBJECT: Sectional Summary of CSHB 106(STA) *CSSB 51 (JUD)*
(Work Order No. 29-GH1897\W)

TO: Representative Bob Lynn
Attn: Nancy Manly

FROM: Kate S. Glover *KS*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Secs. 1 - 16. Amend definitions and add new definitions applicable to AS 25.25 relating to the Uniform Family Support Act.

Sec. 17. Designates the child support services agency created in AS 25.27.010 as the support enforcement agency of the state.

Sec. 18. Amends AS 25.25.103 to clarify that cumulative remedies do not affect the recognition of a support order on the basis of comity.

Sec. 19. Adds a new subsection to AS 25.25.103 to establish that the bill does not establish the exclusive method for establishing support orders in the state and that it does not grant the state the ability to issue an order related to custody or parenting time under this chapter.

Sec. 20. Requires a tribunal of the state to apply specified sections of the bill and law to proceedings involving foreign support orders, foreign tribunals, or obligees, obligors, or children residing in a foreign country.

Sec. 21. Makes clarifying amendments to AS 25.25.201 pertaining to jurisdiction over nonresidents.

Sec. 22. Explains that the laws of the state may not be used to acquire personal.

jurisdiction for a tribunal of the state to modify a child support order of another state, or a foreign support order, unless certain requirements are met.

Sec. 23. Repeals and reenacts AS 25.25.202 to provide that the state has continuing, exclusive jurisdiction to modify or enforce its order if certain requirements are met.

Sec. 24. Makes clarifying revisions to AS 25.25.203 pertaining to initiating and responding tribunals.

Sec. 25. Makes clarifying revisions to AS 25.25.204 pertaining to simultaneous proceedings.

Sec. 26. Clarifies that jurisdiction is based on residency at the time of filing and that the state can have continuing jurisdiction with the consent of all parties even when the parties no longer reside there.

Sec. 27. Clarifies when the state may not exercise continuing, exclusive jurisdiction to modify a child support order issued by a tribunal of the state.

Sec. 28. Requires a tribunal of the state to recognize continuing, exclusive jurisdiction of the tribunal of another state that has issued a child support order under a law substantially similar to this chapter.

Sec. 29. Allows a tribunal of the state to serve as the initiating tribunal to request the tribunal of another state to modify a support order issued in that state.

Secs. 30 and 31. Clarify when a tribunal of this state can act as an initiating or responding tribunal to enforce a support order.

Secs. 32 - 37. Amend procedures for determining which order is the controlling order if two or more support orders have been issued for the same obligor and child. Adds requirements for controlling support orders.

Sec. 38. Adds "foreign country" to AS 25.25.208 pertaining to orders for two or more obligees.

Sec. 39. Clarifies language regarding credit for payments.

Sec. 40. Adds new sections regarding proceedings involving nonresidents who are subject to personal jurisdiction, and regarding jurisdiction for modifying spousal support orders.

Sec. 41. Makes clarifying revisions to AS 25.25.301(c).

Sec. 42. Amends AS 25.25.303 to remove "including the rules on choice of law"

Sec. 43. Amends AS 25.25.304 relating to the duties of a tribunal of this state to specify the amount of support sought from a foreign country and to convert the amount into foreign currency.

Sec. 44. Allows a tribunal of this state to determine the controlling child support order.

Sec. 45. Provides the process for a tribunal of this state to convert a foreign support order into the equivalent amount in dollars.

Sec. 46. Makes clarifying revisions to AS 25.25.306.

Secs. 47 - 48. Makes clarifying revisions and adds sections to the duties of child support agencies regarding foreign support orders and income withholding orders.

Sec. 49. Adds a new section setting out the duties of the Department of Revenue under the Act.

Sec. 50. Makes clarifying revisions to AS 25.25.310.

Sec. 51. Makes clarifying revisions to AS 25.25.311.

Sec. 52. Changes requirements regarding when a court may seal information to protect the health, safety, or liberty of a party or a child.

Sec. 53. Makes clarifying revisions to AS 25.25.313.

Sec. 54. Makes clarifying revisions to AS 25.25.314.

Secs. 55 - 59. Make clarifying revisions to AS 25.25.316.

Sec. 60. Adds a new section providing that a certified copy of a voluntary acknowledgement of paternity is admissible to establish paternity.

Sec. 61. Allows tribunals to communicate through electronic mail under the Act.

Sec. 62. Amends AS 25.25.318 to apply to tribunals outside this state.

Sec. 63. Makes clarifying revisions to AS 25.25.319.

Sec. 64. Adds sections relating to the duties of the support enforcement agency of this state or a tribunal of this state when the child support services agency of this state receives payments under a support order and neither the obligor, the obligee, nor the child resides in this state.

Representative Bob Lynn

March 4, 2015

Page 4

Sec. 65. Allows a responding tribunal of this state to issue a support order if the tribunal has personal jurisdiction over an individual residing outside of the state.

Sec. 66. Clarifies when a tribunal may issue a temporary child support order.

Sec. 67. Authorizes a tribunal of this state to serve as a responding tribunal in a proceeding to determine parentage.

Sec. 68. Makes clarifying revisions to AS 25.25.501.

Sec. 69. Makes clarifying revisions to AS 25.25.502.

Sec. 70. Makes clarifying revisions to AS 25.25.503.

Sec. 71. Makes clarifying revisions to AS 25.25.504.

Sec. 72. Makes clarifying revisions to AS 25.25.505.

Sec. 73. Clarifies how an obligor can challenge the enforcement of an income withholding order issued in another state and received by an employer of this state.

Secs. 74 - 77. Add "foreign support order" as an order that can be registered in this state.

Sec. 78. Provides procedures for registering an order when more than one order is in effect.

Sec. 79. Adds "foreign support order" to AS 25.25.603, dealing with effect of registration for enforcement.

Sec. 80. Provides that the law of the issuing state or country governs certain proceedings relating to support orders.

Sec. 81. Provides that a responding tribunal in this state shall apply the procedures and remedies available in this state to collect and enforce a support order from another state or foreign country but will prospectively apply the law of the state or foreign country that issued the controlling order.

Sec. 82. Adds "foreign support order" to AS 25.25.605, regarding notice of registration of order.

Sec. 83. Adds new subsections relating to procedures required when a registering party asserts that two or more orders are in effect.

Secs. 84 - 85. Make conforming amendments to AS 25.25.606.

Representative Bob Lynn
March 4, 2015
Page 5

Sec. 86. Adds "the alleged controlling order is not the controlling order" to the list of defenses available to a party contesting the validity or enforcement of a registered support order.

Secs. 87 - 89. Make conforming amendments.

Sec. 90. Prohibits a tribunal of this state from modifying the duration of the obligation of support under a support order that could not be modified under the law of the issuing state.

Sec. 91. Makes clarifying amendments to AS 25.25.611(d).

Sec. 92. Adds new subsections providing that the law of the state that issued the controlling support order governs the duration of the obligation of support.

Sec. 93. Requires that when an order issued by a tribunal of this state is modified by another state, this state shall only enforce the original order for the purposes of arrears and interest prior to modification.

Sec. 94. Amends AS 25.25.613(b) to include references to new sections added by this bill.

Sec. 95. Adds new sections relating to jurisdiction and procedures to modify child support orders of foreign countries.

Sec. 96. Adds a new article, Article 7A, dealing with proceedings under the Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. New sections include definitions, applicability, initiation of support proceedings, registration of convention support orders, contesting orders, recognition and enforcement of orders, foreign support agreements, modification of convention support orders, and other sections.

Secs. 97 - 100. Make clarifying revisions to AS 25.25.801, AS 25.25.802, and AS 25.25.901.

Sec. 101. Repeals AS 25.25.101(7), AS 25.25.205(f), AS 25.25.206(c), AS 25.25.301(b), AS 25.25.401(c), and AS 25.25.701.

Sec. 102. Provides that this Act applies to proceedings begun on or after the effective date of this section.

Sec. 103. Requires the Department of Revenue to adopt transition regulations.

Sec. 104. Directs the revisor to make conforming amendments to various article headings and section catch lines.

Representative Bob Lynn
March 4, 2015
Page 6

Sec. 105. Provides that sec. 103 takes effect immediately.

Sec. 106. Provides that the Act, except as provided in sec. 105, takes effect July 1, 2015.

KSG:Ind
15-183.Ind



Search

- Home
- HCCH Members (incl. map)
- Non-Member Contracting States (incl. map)
- Statute, Rules, Regulations
- Conventions
- Specialised sections
- Authorities
- Publications
- Work in Progress
- News & Events (archive)
- Vacancies / Internships

Status table

38 Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance

Entry into force: 1-1-2013

Last update: 8-X-2014

Number of States and REIOs bound by this Convention: 32

(This is the number of States that have ratified, acceded or succeeded to the Convention, or which are bound by the Convention as a result of an approval by an REIO, including the actual approval by the REIO)

View and/or print full status report

- 1) S Signature
- 2) R A/ Ap/ Su Ratification, Accession, Approval by an REIO or Succession
- 3) Type R Ratification
 - A Accession,
 - A* Accession giving rise to an acceptance procedure click on A* for details of acceptances of the accession,
 - Ap Approval by an REIO,
 - Ap* State bound as a result of an approval by an REIO,
 - C Continuation,
 - Su Succession,
 - Den Denunciation.
- 4) EIF Entry into force
- 5) Ext Extensions of application
- 6) Auth Designation of Authorities
- 7) Res. D/N Reservations, declarations or notifications

- For this Convention
- Full text
- Status table
- Authorities
- Preliminary Documents
- Country Profiles
- 1956 New York Convention
- Practical operation documents
- Questionnaires & Responses
- HCCH Publications
- Translations
- Bibliography
- Miscellaneous

Members of the Organisation (click here for the non Member States)

State / REIO	S ¹	RIA/Ap/Su ²	Type ³	EIF ⁴	Ext ⁵	Auth ⁶	Res/DIN ⁷
Albania	21 X 2011	13 IX 2012	R	1 I 2013			
Austria			Ap*	1 VIII 2014		1	
Belgium			Ap*	1 VIII 2014		1	
Bosnia and Herzegovina	3-VIII-2011	25 X 2012	R	1 II 2013			
Bulgaria			Ap*	1 VIII 2014			
Burkina Faso	7-1-2009						
Croatia			Ap*	1 VIII 2014		1	
Cyprus			Ap*	1 VIII 2014			
Czech Republic			Ap*	1 VIII 2014			
Estonia			Ap*	1 VIII 2014		1	
European Union	1 IV 2011	9 IV 2014	Ap	1 VIII 2014			
Finland			Ap*	1-VIII 2014		1	
France			Ap*	1 VIII 2014			
Germany			Ap*	1 VIII 2014		1	
Greece			Ap*	1 VIII 2014			1
Hungary			Ap*	1 VIII 2014			
Ireland			Ap*	1 VIII 2014			
Italy			Ap*	1 VIII-2011		1	
Latvia			Ap*	1 VIII 2014		1	
Lithuania			Ap*	1 VIII 2014		1	
Luxembourg			Ap*	1 VIII 2014		1	
Malta			Ap*	1 VIII 2014		1	
Netherlands			Ap*	1 VIII 2014		1	
Norway	8 VI 2010	6 IV 2011	R	1 I 2013		1	
Poland			Ap*	1 VIII 2014			

33

Portugal		Ap*	1 VIII 2014	1	
Romania		Ap*	1 VIII 2014	1	
Slovakia		Ap*	1 VIII 2014	1	
Slovenia		Ap*	1 VIII 2014		
Spain		Ap*	1 VIII 2014		
Sweden		Ap*	1 VIII 2014	1	
Ukraine	7 VII 2010 21 VII 2013	Ap	1-XI 2013		1, 2, 3
United Kingdom of Great Britain and Northern Ireland		Ap*	1-VIII-2014	1	
United States of America	13-XI 2007				

Non Member States of the Organisation (click here for the Members)

No results.

- 1) S Signature
- 2) R/A/ Ap Su Ratification, Accession, Approval by an REIO or Succession
- 3) Type R, Ratification
 - A Accession,
 - A* Accession giving rise to an acceptance procedure click on A* for details of acceptances of the accession
 - Ap Approval by an REIO,
 - Ap* State bound as a result of an approval by an REIO,
 - C Continuation,
 - Su Succession,
 - Den Denunciation,
- 4) EIF Entry into force
- 5) Ext Extensions of application
- 6) Auth Designation of Authorities
- 7) Res/D/N Reservations, declarations or notifications

UNIFORM INTERSTATE FAMILY SUPPORT ACT
(Last Amended or Revised in 2008)

*2008 AMENDMENTS TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT
ARE INDICATED BY UNDERSCORE AND STRIKEOUT*

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-SEVENTEENTH YEAR
IN BIG SKY, MONTANA
JULY 18 - 25, 2008

WITH PREFATORY NOTE AND COMMENTS

COPYRIGHT © 2008

By

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

July 20, 2011

**DRAFTING COMMITTEE ON AMENDMENTS TO
UNIFORM INTERSTATE FAMILY SUPPORT ACT (2001)**

The Committee appointed by and representing the National Conference of Commissioners on Uniform State Laws in drafting these amendments consists of the following individuals:

BATTLE R. ROBINSON, 104 W. Market St., Georgetown, DE 19947, *Chair*
MARLIN J. APPELWICK, One Union Square, 600 University St., Seattle, WA 98101
BARBARA ANN ATWOOD, University of Arizona - James E. Rogers College of Law, 1201 E. Speedway, P.O. Box 210176, Tucson, AZ 85721-0176
DEBORAH E. BEHR, Office of Attorney General, P.O. Box 110300, Juneau, AK 99811
VINCENT C. DELIBERATO, JR., Legislative Reference Bureau, Main Capitol Building, Room 641, Harrisburg, PA 17120-0033
GAIL H. HAGERTY, Burleigh County Court House, P.O. Box 1013, 514 E. Thayer Ave., Bismarck, ND 58502-1013
LISA HARRIS-MOORHEAD, Legislature of the Virgin Islands, 100 Lagoon Complex Homes, Suite 2, Frederiksted, St. Croix, USVI 00840
KAY P. KINDRED, University of Nevada, Las Vegas, 4505 Maryland Pkwy., Box 451003, Las Vegas, NV 89154-1003
PAUL M. KURTZ, University of Georgia School of Law, Athens, GA 30602-6012
HARRY L. TINDALL, 1300 Post Oak Blvd., Suite 1550, Houston, TX 77056-3081
JOHN J. SAMPSON, University of Texas School of Law, 727 E. Dean Keeton, Austin, TX 78705, *Reporter*

CANADIAN MEMBERS

DENISE GERVAIS, Ministere de la Justice du Quebec, 1200, Route de l'Eglise, 4 etage, Sainte-Foy, Quebec, Canada G1V 4M1
TRACY MORROW, Family Law Branch, Manitoba Justice, 1230 - 405 Broadway, Winnipeg, Manitoba, Canada R3C 3L6
ANDINA VAN ISSCHIOT, Department of Justice Canada, 284 Wellington St., Ottawa, Ontario, Canada K1A 0H8

ADVISORS

CLAUDIA E. DE BUEN UNNA, Mariano Escobedo 353-A Desp. 1402, Polanco, Mexico 11560, *Advisor*
ANA MARIA KUDISCH, Agustin Gonzalez de Cossio #229, Col. Del Valle, Deleg. Benito Juarez, Mexico 03100, *Advisor*

EX OFFICIO

MARTHA LEE WALTERS, Oregon Supreme Court, 1163 State St., Salem, OR 97301-2563, *President*
WILLIAM H. HENNING, University of Alabama School of Law, Box 870382, Tuscaloosa, AL 35487-0382, *Division Chair*

AMERICAN BAR ASSOCIATION ADVISOR

GLORIA F. DEHART, 265 Willamette Ave., Kensington, CA 94708-1055, *ABA Advisor*
JOSEPH W. BOOTH, 11900 W. 87th St. Pkwy., Suite 117, Lenexa, KS 66215, *ABA Section
Advisor*

EXECUTIVE DIRECTOR

JOHN A. SEBERT, 111 N. Wabash Ave., Suite 1010, Chicago, IL 60602, *Executive Director*

Copies of this Act may be obtained from:

**NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS**
111 N. Wabash Ave., Suite 1010
Chicago, Illinois 60602
312/450-6600
www.nccusl.org

Comment

The procedure for registration and enforcement set forth in sections 601 through 608 is applicable to a child-support order from a non-Convention country. This section provides coverage for modification in that situation. Presumptively, the general law of the state regarding modification of a child-support order will apply because, by their terms, sections 609 through 614 apply only to modification of a child-support order by a state tribunal. The rationale is that modification is available because the foreign order is not founded on the principles of continuing, exclusive jurisdiction and a controlling order. *See* sections 205 through 207.

ARTICLE 7

DETERMINATION OF PARENTAGE

SUPPORT PROCEEDING UNDER CONVENTION

Introductory Comment

This article contains provisions adapted from the Convention that could not be readily integrated into the existing body of Articles 1 through 6. For the most part, extending the coverage of UIFSA (2008) to foreign countries was a satisfactory solution to merge the appropriate Convention terms into this act. In understanding this process, it must be clearly stated that the terms of the Convention are not substantive law. When the Senate has given its advice and consent, the Convention has been ratified by the President, and certain formal procedures have been completed, the Convention will become a multilateral treaty between the United States and the other Convention countries. As such, it will be the law of the land; but the treaty is not self-executing. *See, Medellín v. Texas*, 552 U.S. ___, 128 S.Ct. 1346, 170 L.Ed.2d 190 (2008). Thus, the ultimate enforcement of the treaty in the United States will be dependent on the enactment of both federal and state legislation. This act is predicated on the principle that the enactment of UIFSA (2008) will effectively implement the Convention through state law by amending Articles 1 through 6, plus the addition of this article. This will encourage international cooperation by emulating the interstate effect of UIFSA for international cases, especially those affected by the Convention.

In relatively few instances, the provisions of the Convention are sufficiently specific that a choice was made between amending UIFSA accordingly, with a disproportionate effect on all support orders enforced under state law, or accommodating potential conflicts by creating a separate article to apply only to Convention support orders. The choice was to draft this article as state law to minimize disruption to interstate support orders, which constitute the vast majority of orders processed by under UIFSA. Note that this act is the substantive and procedural state law for: (1) responding to an application for establishment, recognition and enforcement, or modification of a Convention support order; and, (2) initiating an application to a Convention country for similar action.

The four Hague maintenance conventions that preceded the 2007 Convention, and the three prior versions of UIFSA, have common goals. The distinctions between the jurisdictional rules in the common-law tradition in the United States, and the civil law systems in most of the countries that were parties to the earlier maintenance conventions, were obstacles to participation of the United States in any of the multilateral maintenance treaties (until recently). As the world has grown smaller and globalization has become the order of the day, reconciling the differences has become more and more important. Understanding the necessity for accommodation has made the task easier. This is not to say easy, as evidenced by the fact that the formal negotiations leading to the final text of the Convention spanned from May, 2003, to November, 2007. As of this writing, it remains unclear when the Convention will enter into force in the United States. Nonetheless, signing the Convention by the executive branch of the federal government on

November 23, 2007, and approval of the UIFSA (2008) by the annual conference of the Uniform Law Commission in July 2008, marked important milestones toward eventual adoption of both the Convention and UIFSA (2008).

This act and the 2007 Convention have far more in common than did former uniform acts and maintenance conventions, and, in fact, many provisions of the Convention are modeled on UIFSA principles. The negotiations demonstrated that it is possible to draft an international convention, which incorporates core UIFSA principles into a system for the establishment and enforcement of child support and spousal-support orders across international borders, and creates an efficient, economical, and expeditious procedure to accomplish these goals. Matters in common, however, go far beyond identical goals. The negotiations provided an opportunity for an extended interchange of ideas about how to adapt legal mechanisms to facilitate child support enforcement between otherwise disparate legal systems.

International cross-border enforcement has been far more important in Western Europe, and more recently, throughout the countries of the European Union than has been the case in the United States. On the other hand, experience with establishment and enforcement of interstate child support orders in the United States has been building since 1950, and accelerated rapidly with enactment of Title IV-D of the Social Security Act in 1975. Clearly, the issues are far easier to deal with nationally because of the common language, currency, and legal system, and, since 1996, with the Title IV-D requirement that all states enact the same version of UIFSA. In fact, since the advent of UIFSA and Title IV-D, millions of interstate cases have been processed through the child support enforcement system and integration of a few thousand foreign support orders has been less of a challenge in the United States. The entry into force of the Convention is designed to further improve the process and may lead in a few years to a substantial increase in international cases, both incoming and outgoing.

To create UIFSA (2008), it was necessary to integrate the texts of UIFSA (2001) and the Convention. This did not present a significant drafting challenge for the most part. By far the most common amendment in Articles 1 through 6 is to substitute "state or foreign country" for the term "state." These simple amendments expanded a majority of this act to cover foreign support orders. In this article statutory directions are given to "a tribunal of this state," and also to a "governmental entity, individual petitioner, support enforcement agency, or a party."

~~SECTION 701. PROCEEDING TO DETERMINE PARENTAGE.~~ ~~A court of this State authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage brought under this [Act] or a law or procedure substantially similar to this [Act].~~

SECTION 701. DEFINITIONS. In this [article]:

(1) "Application" means a request under the Convention by an obligee or obligor, or on



Calendar No. 279

113TH CONGRESS }
2d Session }

SENATE

{ REPORT
113-137

THE SUPPORTING AT-RISK KIDS ACT

FEBRUARY 6, 2014.—Ordered to be printed

Mr. BAUCUS, from the Committee on Finance,
submitted the following

R E P O R T

together with

MINORITY VIEWS

[To accompany S. 1870]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, having considered an original bill, S. 1870, to reauthorize and restructure adoption incentive payments, to better enable State child welfare agencies to prevent sex trafficking of children and serve the needs of children who are victims of sex trafficking, to increase the reliability of child support for children, and for other purposes, reports favorably thereon and recommends that the bill do pass.

CONTENTS

Background and Need for Legislative Action	2
Legislative History and Committee Action	8
Title I—Strengthening and Finding Families for Children	16
Subtitle A—Adoption Incentive Payments	16
Sec. 111—Extension of Program Through Fiscal Year 2016	16
Sec. 112—Improvements to Award Structure	16
Sec. 113—Renaming the Program	21
Sec. 114—Limitations on Use of Incentive Payments	21
Sec. 115—State Report on Calculation and Use of Savings Resulting from the Phase-Out of Eligibility Requirements for Adoption Assistance; Re- quirement to Spend 40 Percent of Savings on Certain Services	21
Sec. 116—Preservation of Eligibility for Kinship Guardianship Assistance Payments with a Successor Guardian	22
Sec. 117—Data Collection on Adoption and Foster Child Guardianship Dis- ruption and Dissolution	23
Sec. 118—Effective Dates	24

Subtitle B—Extension of Family Connection Program	24
Sec. 121—Extension of Family Connection Grant Program	24
Subtitle C—Unemployment Compensation	26
Sec. 131—Improving the Collection of Unemployment Insurance Overpay- ments through Tax Refund Offset	26
Title II—Identifying and Serving Youth Vulnerable to Sex Trafficking	26
Subtitle A—Addressing the Risks that Make Youth Vulnerable to Sex Traf- ficking	26
Sec. 211—Identifying and Screening Youth at Risk of Sex Trafficking	26
Sec. 212—Improvements to Another Planned Permanent Living Arrange- ment (APPLA) as Permanency Option	27
Subtitle B—Empowering Older Youth Vulnerable to Domestic Sex Traf- ficking and Other Negative Outcomes	31
Sec. 221—Empowering Foster Youth Age 14 and Older in the Development of Their Own Case Plan and Transition Planning for a Successful Adult- hood	31
Sec. 222—Ensuring Foster Children Age 14 or Older Have a Birth Certifi- cate, Social Security Card, Driver's License or Equivalent and a Bank Account	33
Subtitle C—Data and Reports	34
Sec. 231—Streamline Data Collection and Reporting on Sex Trafficking	34
Sec. 232—Recommendations to Congress for Expanding Housing for Youth Victims of Trafficking	36
Subtitle D—National Advisory Committee on Domestic Sex Trafficking	37
Sec. 241—National Advisory Committee on Domestic Sex Trafficking	37
Title III—Child Support Enforcement	40
Subtitle A—Increased Reliability of Child Support	40
Sec. 311—Compliance with Multilateral Child Support Conventions	40
Sec. 312—Relief from Passport Sanctions for Certain Individual	45
Sec. 313—Child Support Enforcement Programs for Indian Tribes	46
Sec. 314—Parenting Time Arrangements	47
Sec. 315—Efficient Use of the National Directory of New Hires Database for Federally Sponsored Research Assessing the Effectiveness of Federal Policies and Programs in Achieving Positive Labor Market Outcomes	48
Subtitle B—Child Support Enforcement Task Force	49
Sec. 321—Child Support Enforcement Task Force	49
Subtitle C—Effective Dates	50
Sec. 331—Effective Dates	50
Appendix	50

I. BACKGROUND AND NEED FOR LEGISLATIVE ACTION

The Finance Committee has demonstrated a commitment to working in a bipartisan fashion on issues that affect the nation's children and youth. In the 112th and 113th Congresses the Finance Committee continued its commitment to children and young people through a series of roundtables, hearings, and legislative actions initiated by committee members. These activities of the Senate Finance Committee and its members culminated in the "Supporting At-Risk Kids Act of 2013" that seeks to address improved permanency for children in foster care, identify and provide services to youth at risk for domestic sex traffic and to prevent the trafficking of vulnerable children and youth, as well as to encourage parental involvement both fiscally and socially in the lives of children for whom child support is owed.

TITLE I—STRENGTHENING AND FINDING FAMILIES FOR CHILDREN ADOPTION INCENTIVE GRANT PROGRAM

The Adoption Incentive Payment program distributes federal bonuses to states when they increase adoptions of children in foster care. Under current law, states earn \$4,000 for each adoption of a foster child that is above the number of foster child adoptions finalized by the state in FY 2007 and \$8,000 for each adoption of an

*Funding**Present law*

Provides certain mandatory funds for the Census Bureau to carry out the Survey of Income and Program Participants (SIPP).

Committee bill

Would transfer \$400,000 of unobligated mandatory funds for the SIPP to establish the commission and allow it to carry out its duties. The \$400,000 would not be subject to reduction under a sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985. Any amounts made available for the commission that are unobligated on the date on which the committee terminates would be returned to the Treasury.

TITLE III—CHILD SUPPORT ENFORCEMENT

Title III of the Committee Bill will be cited as the Child Support Improvement and Work Promotion Act.

SUBTITLE A—INCREASED RELIABILITY OF CHILD SUPPORT**SEC. 311. COMPLIANCE WITH MULTILATERAL CHILD SUPPORT CONVENTIONS***Secretary's authority to ensure compliance with multilateral child support convention**Present law*

The United States has generally dealt with international child support enforcement cases by negotiating bilateral agreements with individual countries. The U.S. currently has bilateral agreements with 15 countries and 12 Canadian provinces/territories. Unlike multilateral agreements, the procedures and forms of bilateral agreements vary from country to country. Although courts and child support enforcement agencies in the United States already recognize and enforce most foreign child support orders, many foreign countries have not been processing child support requests from the United States.

On November 23, 2007, after four years of deliberation, the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (referred to herein as the Convention) was adopted at the conclusion of the Twenty-First Diplomatic Session of The Hague Conference on Private International Law at The Hague, The Netherlands. The United States delegation was the first country to sign the Convention. Other signatories currently include Albania, Bosnia and Herzegovina, the European Union, Norway, and Ukraine. The Convention offers the United States the opportunity to join a multilateral treaty, saving the time and expense that would otherwise be required to negotiate bilateral agreements with individual countries around the world. The Convention is expected to result in more U.S. children receiving the financial support they need from their noncustodial parents, regardless of where the parents live.

The Convention does not affect intrastate or interstate child support cases in the United States. It only applies to cases where the

custodial parent and child live in one country and the noncustodial parent lives in another country.

On September 29, 2010, the U.S. Senate approved the Resolution of Advice and Consent regarding the Convention. In order for the Convention to enter into force for the United States, Congress must adopt, and there must be enacted, implementing legislation for the Convention.

Committee bill

The Committee Bill would require the Secretary of HHS to use federal and, if necessary, state child support enforcement methods to ensure compliance with any U.S. treaty obligations associated with any multilateral child support convention to which the United States is a party.

Access to the Federal Parent Locator Service

Present law

Under current federal law, the Federal Parent Locator Service (FPLS) is only allowed to transmit information in its databases to "authorized persons," which include (1) child support enforcement agencies (and their attorneys and agents); (2) courts; (3) the resident parent, legal guardian, attorney, or agent of a child owed child support; and (4) foster care and adoption agencies.

The FPLS is an assembly of computer systems operated by the Office of Child Support Enforcement (OCSE), to assist states in locating noncustodial parents, putative fathers, and custodial parties for the establishment of paternity and child support obligations, as well as the enforcement and modification of orders for child support, custody, and visitation. The FPLS assists federal and state agencies to identify overpayments and fraud, and assists with assessing benefits. Developed in cooperation with the states, employers, federal agencies, and the judiciary, the FPLS was expanded by P.L. 104-193 (the Personal Responsibility Work Opportunity Reconciliation Act of 1996) to include the following:

- The National Directory of New Hires (NDNH): a central repository of employment, unemployment insurance, and wage data from State Directories of New Hires, State Workforce Agencies, and federal agencies.
- The Federal Case Registry (FCR): a national database that contains information on individuals in child support cases and child support orders.
- The Federal Offset Program (FOP): a program that collects past-due child support payments from the tax refunds of parents who have been ordered to pay child support.
- The Federal Administrative Offset Program (FAOP): a program that intercepts certain federal payments in order to collect past-due child support.
- The Passport Denial Program (PDP): a program that works with the Secretary of State in denying passports of any person that has been certified as owing a child support debt greater than \$2,500.
- The Multistate Financial Institution Data Match (MSFIDM): a program that allows child support agencies a means of locating financial assets of individuals owing child support.

In addition, the FPLS also has access to external sources for locating information such as the Internal Revenue Service (IRS), the Social Security Administration (SSA), the Department of Veterans Affairs (VA), the Department of Defense (DOD), National Security Agency (NSA), and the Federal Bureau of Investigation (FBI).

Committee bill

The Committee Bill would expand the definition of an "authorized person" to include an entity designated as a Central Authority for child support enforcement in a "foreign reciprocating country" or in a "foreign treaty country" in cases involving international enforcement of child support.

State option to require individuals in foreign countries to apply through their country's appropriate central authority

Present law

A CSE state plan must provide that any request for CSE services by a foreign reciprocating country or a foreign country with which the state has an arrangement must be treated as a request by a state.

Committee bill

The Committee Bill would give states the option to require individuals in foreign countries to apply for CSE services through their country's appropriate central authority for child support enforcement. If the individual resides in a foreign country that is not a "reciprocating" or "treaty" country, the state may choose to accept or reject the application for CSE services.

The Committee Bill would include requests for CSE services by a "foreign treaty country" that has a reciprocal arrangement with a state as though it is a request by a state. It would include a "foreign treaty country" and a "foreign individual" as entities that do not have to provide applications, and against whom no costs will be assessed, for CSE services.

Note

The Committee Report corrects an error in the Chairman's Mark. The Paragraph describing that the Mark "Would give states the option to require individuals in foreign countries to apply for CSE services through their country's appropriate central authority for child support enforcement. If the individual resides in a foreign country that is not a "reciprocating" or "treaty" country, the state may choose to accept or reject the application for CSE services." was omitted from the Chairman's Mark and the paragraph directly following was repeated twice. The corresponding legislative text is correct.

Amendments to international support enforcement provisions

Present law

P.L. 104 193 (the Personal Responsibility Work Opportunity Reconciliation Act of 1996) established procedures for international enforcement of child support. The Secretary of State, with the concurrence of the Secretary of HHS, is authorized to declare reciprocity

with foreign countries having requisite procedures for establishing and enforcing child support orders.

Committee bill

The Committee Bill would establish a definition for three terms: (1) "foreign reciprocating country," (2) "foreign treaty country," and (3) "2007 Family Maintenance Convention."

- It would define a "foreign reciprocating country" as a foreign country (or political subdivision thereof) with respect to which the HHS Secretary has declared as having or implementing procedures to establish and enforce duties of support for residents of the United States at no cost or at low cost.

- It would define a "foreign treaty country" as a foreign country for which the 2007 Family Maintenance Convention is in force.

- It would define the term "2007 Family Maintenance Convention" to mean the Hague Convention of November 23, 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance.

The Committee Bill would make it the responsibility of the HHS Secretary to facilitate support enforcement in cases involving residents of the United States and residents of "foreign reciprocating countries" or "foreign treaty countries."

The Committee Bill would include "foreign treaty countries" as entities which can receive notification as to the state of residence of the person being sought for child support enforcement purposes. It would include "foreign reciprocating countries" and "foreign treaty countries" as entities that states may enter into reciprocal arrangements with for the establishment and enforcement of child support obligations.

Collection of past-due support from federal tax refunds

Present law

The Federal Income Tax Refund Offset program collects past-due child support payments from the income tax refunds of noncustodial parents who have been ordered to pay child support. The program is a cooperative effort between the federal Office of Child Support Enforcement (OCSE), the Internal Revenue Service (IRS), and state CSE agencies. Under the Federal Income Tax Refund Offset program, the IRS, operating on request from a state filed through the Secretary of HHS, intercepts tax returns and deducts the amount of certified child support arrearages. The money is then sent to the state CSE agency for distribution.

Committee bill

The Committee Bill would amend federal law so that the federal income tax refund offset program is available for use by a state to handle CSE requests from foreign reciprocating countries and foreign treaty countries.

State law requirement concerning the Uniform Interstate Family Support Act (UIFSA)

Present law

In the past, collecting child support across state lines was difficult. Laws varied from state to state, often causing complications

that delayed the establishment and/or enforcement of child support orders. Congress recognized this problem and mandated (pursuant to P.L. 104-193) that all states adopt UIFSA to facilitate collecting child support across state lines. (Section 466(f)) P.L. 104-193 required that the 1996 version of UIFSA be adopted. It has been adopted in every state, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.

The National Conference of Commissioners on Uniform State Laws (NCCUSL) approved additional amendments to UIFSA in August 2001. However, there is no federal mandate for states to enact the 2001 amendments. To date, only 21 states and the District of Columbia have adopted the 2001 amendments to UIFSA. In July 2008, the NCCUSL approved amendments to the 2001 UIFSA (referred to as UIFSA 2008), to integrate the appropriate provisions of the Convention. Similarly, there is no federal mandate for states to enact UIFSA 2008. To date, only 11 states have adopted the 2008 amendments to UIFSA. States that have adopted UIFSA 2008 now stand ready to immediately implement the Convention if it is ratified.

Committee bill

The Committee Bill would require that for a state to receive federal CSE funding, each state's UIFSA must include verbatim any amendments officially adopted as of September 30, 2008, by the National Conference of Commissioners on Uniform State Laws (NCCUSL). States would be required to adopt the 2008 amendments verbatim to ensure uniformity of procedures, requirements, and reporting forms.

Full faith and credit for child support orders

Present Law

Federal law requires states to treat past-due child support obligations as final judgments that are entitled to full faith and credit in every state. This means that a person who has a child support order in one state does not have to obtain a second order in another state to obtain child support due should the noncustodial parent move from the issuing court's jurisdiction. Congress passed P.L. 103-383, the Full Faith and Credit for Child Support Orders Act (FFCCSOA), in 1994 because of concerns about the growing number of child support cases involving disputes between parents who lived in different states and the ease with which noncustodial parents could reduce the amount of the obligation or evade enforcement by moving across state lines. P.L. 103-383 required courts of all United States territories, states, and tribes to accord full faith and credit to a child support order issued by another state or tribe that properly exercised jurisdiction over the parties and the subject matter. P.L. 103-383 addressed the need to determine, in cases with more than one child support order issued for the same obligor and child, which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement. P.L. 103-383 restricted a state court's ability to modify a child support order issued by another state unless the child and the custodial parent have moved to the state where the modification is sought or have agreed to the modification. The 1996 welfare reform law (P.L. 104-193) clarified



**38. CONVENTION ON THE INTERNATIONAL RECOVERY
OF CHILD SUPPORT AND OTHER FORMS OF FAMILY
MAINTENANCE¹**

(Concluded 23 November 2007)

The States signatory to the present Convention,
Desiring to improve co-operation among States for the international recovery of child support and other forms of family maintenance,

Aware of the need for procedures which produce results and are accessible, prompt, efficient, cost-effective, responsive and fair,

Wishing to build upon the best features of existing Hague Conventions and other international instruments, in particular the United Nations *Convention on the Recovery Abroad of Maintenance* of 20 June 1956,

Seeking to take advantage of advances in technologies and to create a flexible system which can continue to evolve as needs change and further advances in technology create new opportunities,

Recalling that, in accordance with Articles 3 and 27 of the United Nations *Convention on the Rights of the Child* of 20 November 1989,

- in all actions concerning children the best interests of the child shall be a primary consideration,
- every child has a right to a standard of living adequate for the child's physical, mental, spiritual, moral and social development,
- the parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development, and
- States Parties should take all appropriate measures, including the conclusion of international agreements, to secure the recovery of maintenance for the child from the parent(s) or other responsible persons, in particular where such persons live in a State different from that of the child,

Have resolved to conclude this Convention and have agreed upon the following provisions –

CHAPTER I – OBJECT, SCOPE AND DEFINITIONS

**Article 1
Object**

The object of the present Convention is to ensure the effective international recovery of child support and other forms of family maintenance, in particular by –

- a) establishing a comprehensive system of co-operation between the authorities of the Contracting States;
- b) making available applications for the establishment of maintenance decisions;
- c) providing for the recognition and enforcement of maintenance decisions; and
- d) requiring effective measures for the prompt enforcement of maintenance decisions.

¹ This Convention, including related materials, is accessible on the website of the Hague Conference on Private International Law (www.hcch.net), under "Conventions". For the full history of the Convention, see Hague Conference on Private International Law, *Proceedings of the Twenty-First Session* [to be published].

Article 2
Scope

- (1) This Convention shall apply –
 - a) to maintenance obligations arising from a parent-child relationship towards a person under the age of 21 years;
 - b) to recognition and enforcement or enforcement of a decision for spousal support when the application is made with a claim within the scope of sub-paragraph a); and
 - c) with the exception of Chapters II and III, to spousal support.
- (2) Any Contracting State may reserve, in accordance with Article 62, the right to limit the application of the Convention under sub-paragraph 1 a), to persons who have not attained the age of 18 years. A Contracting State which makes this reservation shall not be entitled to claim the application of the Convention to persons of the age excluded by its reservation.
- (3) Any Contracting State may declare in accordance with Article 63 that it will extend the application of the whole or any part of the Convention to any maintenance obligation arising from a family relationship, parentage, marriage or affinity, including in particular obligations in respect of vulnerable persons. Any such declaration shall give rise to obligations between two Contracting States only in so far as their declarations cover the same maintenance obligations and parts of the Convention.
- (4) The provisions of this Convention shall apply to children regardless of the marital status of the parents.

Article 3
Definitions

For the purposes of this Convention –

- a) "creditor" means an individual to whom maintenance is owed or is alleged to be owed;
- b) "debtor" means an individual who owes or who is alleged to owe maintenance;
- c) "legal assistance" means the assistance necessary to enable applicants to know and assert their rights and to ensure that applications are fully and effectively dealt with in the requested State. The means of providing such assistance may include as necessary legal advice, assistance in bringing a case before an authority, legal representation and exemption from costs of proceedings;
- d) "agreement in writing" means an agreement recorded in any medium, the information contained in which is accessible so as to be usable for subsequent reference;
- e) "maintenance arrangement" means an agreement in writing relating to the payment of maintenance which –
 - i) has been formally drawn up or registered as an authentic instrument by a competent authority; or
 - ii) has been authenticated by, or concluded, registered or filed with a competent authority, and may be the subject of review and modification by a competent authority;
- f) "vulnerable person" means a person who, by reason of an impairment or insufficiency of his or her personal faculties, is not able to support him or herself.

CHAPTER II – ADMINISTRATIVE CO-OPERATION

Article 4
Designation of Central Authorities

- (1) A Contracting State shall designate a Central Authority to discharge the duties that are imposed by the Convention on such an authority.
- (2) Federal States, States with more than one system of law or States having autonomous territorial units shall be free to appoint more than one Central Authority and shall specify the territorial or personal extent of their functions. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which any communication may be addressed for transmission to the appropriate Central Authority within that State.
- (3) The designation of the Central Authority or Central Authorities, their contact details, and where appropriate the extent of their functions as specified in paragraph 2, shall be communicated by a Contracting State to the Permanent Bureau of the Hague Conference on Private International Law at the time when the instrument of ratification or accession is deposited or when a

declaration is submitted in accordance with Article 61. Contracting States shall promptly inform the Permanent Bureau of any changes.

Article 5
General functions of Central Authorities

Central Authorities shall –

- a) co-operate with each other and promote co-operation amongst the competent authorities in their States to achieve the purposes of the Convention;
- b) seek as far as possible solutions to difficulties which arise in the application of the Convention.

Article 6
Specific functions of Central Authorities

- (1) Central Authorities shall provide assistance in relation to applications under Chapter III. In particular they shall –
 - a) transmit and receive such applications;
 - b) initiate or facilitate the institution of proceedings in respect of such applications.
- (2) In relation to such applications they shall take all appropriate measures –
 - a) where the circumstances require, to provide or facilitate the provision of legal assistance;
 - b) to help locate the debtor or the creditor;
 - c) to help obtain relevant information concerning the income and, if necessary, other financial circumstances of the debtor or creditor, including the location of assets;
 - d) to encourage amicable solutions with a view to obtaining voluntary payment of maintenance, where suitable by use of mediation, conciliation or similar processes;
 - e) to facilitate the ongoing enforcement of maintenance decisions, including any arrears;
 - f) to facilitate the collection and expeditious transfer of maintenance payments;
 - g) to facilitate the obtaining of documentary or other evidence;
 - h) to provide assistance in establishing parentage where necessary for the recovery of maintenance;
 - i) to initiate or facilitate the institution of proceedings to obtain any necessary provisional measures that are territorial in nature and the purpose of which is to secure the outcome of a pending maintenance application;
 - j) to facilitate service of documents.
- (3) The functions of the Central Authority under this Article may, to the extent permitted under the law of its State, be performed by public bodies, or other bodies subject to the supervision of the competent authorities of that State. The designation of any such public bodies or other bodies, as well as their contact details and the extent of their functions, shall be communicated by a Contracting State to the Permanent Bureau of the Hague Conference on Private International Law. Contracting States shall promptly inform the Permanent Bureau of any changes.
- (4) Nothing in this Article or Article 7 shall be interpreted as imposing an obligation on a Central Authority to exercise powers that can be exercised only by judicial authorities under the law of the requested State.

Article 7
Requests for specific measures

- (1) A Central Authority may make a request, supported by reasons, to another Central Authority to take appropriate specific measures under Article 6(2) b), c), g), h), i) and j) when no application under Article 10 is pending. The requested Central Authority shall take such measures as are appropriate if satisfied that they are necessary to assist a potential applicant in making an application under Article 10 or in determining whether such an application should be initiated.
- (2) A Central Authority may also take specific measures on the request of another Central Authority in relation to a case having an international element concerning the recovery of maintenance pending in the requesting State.

Article 8
Central Authority costs

- (1) Each Central Authority shall bear its own costs in applying this Convention.
- (2) Central Authorities may not impose any charge on an applicant for the provision of their services under the Convention save for exceptional costs arising from a request for a specific measure under Article 7.
- (3) The requested Central Authority may not recover the costs of the services referred to in paragraph 2 without the prior consent of the applicant to the provision of those services at such cost.

CHAPTER III – APPLICATIONS THROUGH CENTRAL AUTHORITIES

Article 9
Application through Central Authorities

An application under this Chapter shall be made through the Central Authority of the Contracting State in which the applicant resides to the Central Authority of the requested State. For the purpose of this provision, residence excludes mere presence.

Article 10
Available applications

- (1) The following categories of application shall be available to a creditor in a requesting State seeking to recover maintenance under this Convention –
 - a) recognition or recognition and enforcement of a decision;
 - b) enforcement of a decision made or recognised in the requested State;
 - c) establishment of a decision in the requested State where there is no existing decision, including where necessary the establishment of parentage;
 - d) establishment of a decision in the requested State where recognition and enforcement of a decision is not possible, or is refused, because of the lack of a basis for recognition and enforcement under Article 20, or on the grounds specified in Article 22 b) or e);
 - e) modification of a decision made in the requested State;
 - f) modification of a decision made in a State other than the requested State.
- (2) The following categories of application shall be available to a debtor in a requesting State against whom there is an existing maintenance decision –
 - a) recognition of a decision, or an equivalent procedure leading to the suspension, or limiting the enforcement, of a previous decision in the requested State;
 - b) modification of a decision made in the requested State;
 - c) modification of a decision made in a State other than the requested State.
- (3) Save as otherwise provided in this Convention, the applications in paragraphs 1 and 2 shall be determined under the law of the requested State, and applications in paragraphs 1 c) to f) and 2 b) and c) shall be subject to the jurisdictional rules applicable in the requested State.

Article 11
Application contents

- (1) All applications under Article 10 shall as a minimum include –
 - a) a statement of the nature of the application or applications;
 - b) the name and contact details, including the address and date of birth of the applicant;
 - c) the name and, if known, address and date of birth of the respondent;
 - d) the name and date of birth of any person for whom maintenance is sought;
 - e) the grounds upon which the application is based;
 - f) in an application by a creditor, information concerning where the maintenance payment should be sent or electronically transmitted;
 - g) save in an application under Article 10(1) a) and (2) a), any information or document specified by declaration in accordance with Article 63 by the requested State;
 - h) the name and contact details of the person or unit from the Central Authority of the requesting State responsible for processing the application.

- (2) As appropriate, and to the extent known, the application shall in addition in particular include --
 - a) the financial circumstances of the creditor;
 - b) the financial circumstances of the debtor, including the name and address of the employer of the debtor and the nature and location of the assets of the debtor;
 - c) any other information that may assist with the location of the respondent.
- (3) The application shall be accompanied by any necessary supporting information or documentation including documentation concerning the entitlement of the applicant to free legal assistance. In the case of applications under Article 10(1) a) and (2) a), the application shall be accompanied only by the documents listed in Article 25.
- (4) An application under Article 10 may be made in the form recommended and published by the Hague Conference on Private International Law.

Article 12
Transmission, receipt and processing of applications and
cases through Central Authorities

- (1) The Central Authority of the requesting State shall assist the applicant in ensuring that the application is accompanied by all the information and documents known by it to be necessary for consideration of the application.
- (2) The Central Authority of the requesting State shall, when satisfied that the application complies with the requirements of the Convention, transmit the application on behalf of and with the consent of the applicant to the Central Authority of the requested State. The application shall be accompanied by the transmittal form set out in Annex 1. The Central Authority of the requesting State shall, when requested by the Central Authority of the requested State, provide a complete copy certified by the competent authority in the State of origin of any document specified under Articles 16(3), 25(1) a), b) and d) and (3) b) and 30(3).
- (3) The requested Central Authority shall, within six weeks from the date of receipt of the application, acknowledge receipt in the form set out in Annex 2, and inform the Central Authority of the requesting State what initial steps have been or will be taken to deal with the application, and may request any further necessary documents and information. Within the same six-week period, the requested Central Authority shall provide to the requesting Central Authority the name and contact details of the person or unit responsible for responding to inquiries regarding the progress of the application.
- (4) Within three months after the acknowledgement, the requested Central Authority shall inform the requesting Central Authority of the status of the application.
- (5) Requesting and requested Central Authorities shall keep each other informed of --
 - a) the person or unit responsible for a particular case;
 - b) the progress of the case;
 and shall provide timely responses to enquiries.
- (6) Central Authorities shall process a case as quickly as a proper consideration of the issues will allow.
- (7) Central Authorities shall employ the most rapid and efficient means of communication at their disposal.
- (8) A requested Central Authority may refuse to process an application only if it is manifest that the requirements of the Convention are not fulfilled. In such case, that Central Authority shall promptly inform the requesting Central Authority of its reasons for refusal.
- (9) The requested Central Authority may not reject an application solely on the basis that additional documents or information are needed. However, the requested Central Authority may ask the requesting Central Authority to provide these additional documents or information. If the requesting Central Authority does not do so within three months or a longer period specified by the requested Central Authority, the requested Central Authority may decide that it will no longer process the application. In this case, it shall inform the requesting Central Authority of this decision.

Article 13
Means of communication

Any application made through Central Authorities of the Contracting States in accordance with this Chapter, and any document or information appended thereto or provided by a Central Authority, may not be challenged by the respondent by reason only of the medium or means of communication employed between the Central Authorities concerned.

Article 14
Effective access to procedures

- (1) The requested State shall provide applicants with effective access to procedures, including enforcement and appeal procedures, arising from applications under this Chapter.
- (2) To provide such effective access, the requested State shall provide free legal assistance in accordance with Articles 14 to 17 unless paragraph 3 applies.
- (3) The requested State shall not be obliged to provide such free legal assistance if and to the extent that the procedures of that State enable the applicant to make the case without the need for such assistance, and the Central Authority provides such services as are necessary free of charge.
- (4) Entitlements to free legal assistance shall not be less than those available in equivalent domestic cases.
- (5) No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in proceedings under the Convention.

Article 15
Free legal assistance for child support applications

- (1) The requested State shall provide free legal assistance in respect of all applications by a creditor under this Chapter concerning maintenance obligations arising from a parent-child relationship towards a person under the age of 21 years.
- (2) Notwithstanding paragraph 1, the requested State may, in relation to applications other than those under Article 10(1) a) and b) and the cases covered by Article 20(4), refuse free legal assistance if it considers that, on the merits, the application or any appeal is manifestly unfounded.

Article 16
Declaration to permit use of child-centred means test

- (1) Notwithstanding Article 15(1), a State may declare, in accordance with Article 63, that it will provide free legal assistance in respect of applications other than under Article 10(1) a) and b) and the cases covered by Article 20(4), subject to a test based on an assessment of the means of the child.
- (2) A State shall, at the time of making such a declaration, provide information to the Permanent Bureau of the Hague Conference on Private International Law concerning the manner in which the assessment of the child's means will be carried out, including the financial criteria which would need to be met to satisfy the test.
- (3) An application referred to in paragraph 1, addressed to a State which has made the declaration referred to in that paragraph, shall include a formal attestation by the applicant stating that the child's means meet the criteria referred to in paragraph 2. The requested State may only request further evidence of the child's means if it has reasonable grounds to believe that the information provided by the applicant is inaccurate.
- (4) If the most favourable legal assistance provided for by the law of the requested State in respect of applications under this Chapter concerning maintenance obligations arising from a parent-child relationship towards a child is more favourable than that provided for under paragraphs 1 to 3, the most favourable legal assistance shall be provided.

Article 17
Applications not qualifying under Article 15 or Article 16

- In the case of all applications under this Convention other than those under Article 15 or Article 16 –
- a) the provision of free legal assistance may be made subject to a means or a merits test;
 - b) an applicant, who in the State of origin has benefited from free legal assistance, shall be entitled, in any proceedings for recognition or enforcement, to benefit, at least to the same extent, from free legal assistance as provided for by the law of the State addressed under the same circumstances.

CHAPTER IV - RESTRICTIONS ON BRINGING PROCEEDINGS

Article 18 Limit on proceedings

- (1) Where a decision is made in a Contracting State where the creditor is habitually resident, proceedings to modify the decision or to make a new decision cannot be brought by the debtor in any other Contracting State as long as the creditor remains habitually resident in the State where the decision was made.
- (2) Paragraph 1 shall not apply -
 - a) where, except in disputes relating to maintenance obligations in respect of children, there is agreement in writing between the parties to the jurisdiction of that other Contracting State;
 - b) where the creditor submits to the jurisdiction of that other Contracting State either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity;
 - c) where the competent authority in the State of origin cannot, or refuses to, exercise jurisdiction to modify the decision or make a new decision; or
 - d) where the decision made in the State of origin cannot be recognised or declared enforceable in the Contracting State where proceedings to modify the decision or make a new decision are contemplated.

CHAPTER V - RECOGNITION AND ENFORCEMENT

Article 19 Scope of the Chapter

- (1) This Chapter shall apply to a decision rendered by a judicial or administrative authority in respect of a maintenance obligation. The term "decision" also includes a settlement or agreement concluded before or approved by such an authority. A decision may include automatic adjustment by indexation and a requirement to pay arrears, retroactive maintenance or interest and a determination of costs or expenses.
- (2) If a decision does not relate solely to a maintenance obligation, the effect of this Chapter is limited to the parts of the decision which concern maintenance obligations.
- (3) For the purpose of paragraph 1, "administrative authority" means a public body whose decisions, under the law of the State where it is established -
 - a) may be made the subject of an appeal to or review by a judicial authority; and
 - b) have a similar force and effect to a decision of a judicial authority on the same matter.
- (4) This Chapter also applies to maintenance arrangements in accordance with Article 30.
- (5) The provisions of this Chapter shall apply to a request for recognition and enforcement made directly to a competent authority of the State addressed in accordance with Article 37.

Article 20 Bases for recognition and enforcement

- (1) A decision made in one Contracting State ("the State of origin") shall be recognised and enforced in other Contracting States if -
 - a) the respondent was habitually resident in the State of origin at the time proceedings were instituted;
 - b) the respondent has submitted to the jurisdiction either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity;
 - c) the creditor was habitually resident in the State of origin at the time proceedings were instituted;
 - d) the child for whom maintenance was ordered was habitually resident in the State of origin at the time proceedings were instituted, provided that the respondent has lived with the child in that State or has resided in that State and provided support for the child there;

- e) except in disputes relating to maintenance obligations in respect of children, there has been agreement to the jurisdiction in writing by the parties; or
 - f) the decision was made by an authority exercising jurisdiction on a matter of personal status or parental responsibility, unless that jurisdiction was based solely on the nationality of one of the parties.
- (2) A Contracting State may make a reservation, in accordance with Article 62, in respect of paragraph 1 c), e) or f).
 - (3) A Contracting State making a reservation under paragraph 2 shall recognise and enforce a decision if its law would in similar factual circumstances confer or would have conferred jurisdiction on its authorities to make such a decision.
 - (4) A Contracting State shall, if recognition of a decision is not possible as a result of a reservation under paragraph 2, and if the debtor is habitually resident in that State, take all appropriate measures to establish a decision for the benefit of the creditor. The preceding sentence shall not apply to direct requests for recognition and enforcement under Article 19(5) or to claims for support referred to in Article 2(1) b).
 - (5) A decision in favour of a child under the age of 18 years which cannot be recognised by virtue only of a reservation in respect of paragraph 1 c), e) or f) shall be accepted as establishing the eligibility of that child for maintenance in the State addressed.
 - (6) A decision shall be recognised only if it has effect in the State of origin, and shall be enforced only if it is enforceable in the State of origin.

Article 21

Severability and partial recognition and enforcement

- (1) If the State addressed is unable to recognise or enforce the whole of the decision, it shall recognise or enforce any severable part of the decision which can be so recognised or enforced.
- (2) Partial recognition or enforcement of a decision can always be applied for.

Article 22

Grounds for refusing recognition and enforcement

Recognition and enforcement of a decision may be refused if --

- a) recognition and enforcement of the decision is manifestly incompatible with the public policy ("*ordre public*") of the State addressed;
- b) the decision was obtained by fraud in connection with a matter of procedure;
- c) proceedings between the same parties and having the same purpose are pending before an authority of the State addressed and those proceedings were the first to be instituted;
- d) the decision is incompatible with a decision rendered between the same parties and having the same purpose, either in the State addressed or in another State, provided that this latter decision fulfils the conditions necessary for its recognition and enforcement in the State addressed;
- e) in a case where the respondent has neither appeared nor was represented in proceedings in the State of origin --
 - i) when the law of the State of origin provides for notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or
 - ii) when the law of the State of origin does not provide for notice of the proceedings, the respondent did not have proper notice of the decision and an opportunity to challenge or appeal it on fact and law; or
- f) the decision was made in violation of Article 18.

Article 23

Procedure on an application for recognition and enforcement

- (1) Subject to the provisions of the Convention, the procedures for recognition and enforcement shall be governed by the law of the State addressed.
- (2) Where an application for recognition and enforcement of a decision has been made through Central Authorities in accordance with Chapter III, the requested Central Authority shall promptly either --

- a) refer the application to the competent authority which shall without delay declare the decision enforceable or register the decision for enforcement; or
- b) if it is the competent authority take such steps itself.
- (3) Where the request is made directly to a competent authority in the State addressed in accordance with Article 19(5), that authority shall without delay declare the decision enforceable or register the decision for enforcement.
- (4) A declaration or registration may be refused only on the ground set out in Article 22 a). At this stage neither the applicant nor the respondent is entitled to make any submissions.
- (5) The applicant and the respondent shall be promptly notified of the declaration or registration, made under paragraphs 2 and 3, or the refusal thereof in accordance with paragraph 4, and may bring a challenge or appeal on fact and on a point of law.
- (6) A challenge or an appeal is to be lodged within 30 days of notification under paragraph 5. If the contesting party is not resident in the Contracting State in which the declaration or registration was made or refused, the challenge or appeal shall be lodged within 60 days of notification.
- (7) A challenge or appeal may be founded only on the following –
 - a) the grounds for refusing recognition and enforcement set out in Article 22;
 - b) the bases for recognition and enforcement under Article 20;
 - c) the authenticity or integrity of any document transmitted in accordance with Article 25(1) a), b) or d) or (3) b).
- (8) A challenge or an appeal by a respondent may also be founded on the fulfilment of the debt to the extent that the recognition and enforcement relates to payments that fell due in the past.
- (9) The applicant and the respondent shall be promptly notified of the decision following the challenge or the appeal.
- (10) A further appeal, if permitted by the law of the State addressed, shall not have the effect of staying the enforcement of the decision unless there are exceptional circumstances.
- (11) In taking any decision on recognition and enforcement, including any appeal, the competent authority shall act expeditiously.

Article 24

Alternative procedure on an application for recognition and enforcement

- (1) Notwithstanding Article 23(2) to (11), a State may declare, in accordance with Article 63, that it will apply the procedure for recognition and enforcement set out in this Article.
- (2) Where an application for recognition and enforcement of a decision has been made through Central Authorities in accordance with Chapter III, the requested Central Authority shall promptly either –
 - a) refer the application to the competent authority which shall decide on the application for recognition and enforcement; or
 - b) if it is the competent authority, take such a decision itself.
- (3) A decision on recognition and enforcement shall be given by the competent authority after the respondent has been duly and promptly notified of the proceedings and both parties have been given an adequate opportunity to be heard.
- (4) The competent authority may review the grounds for refusing recognition and enforcement set out in Article 22 a), c) and d) of its own motion. It may review any grounds listed in Articles 20, 22 and 23(7) c) if raised by the respondent or if concerns relating to those grounds arise from the face of the documents submitted in accordance with Article 25.
- (5) A refusal of recognition and enforcement may also be founded on the fulfilment of the debt to the extent that the recognition and enforcement relates to payments that fell due in the past.
- (6) Any appeal, if permitted by the law of the State addressed, shall not have the effect of staying the enforcement of the decision unless there are exceptional circumstances.
- (7) In taking any decision on recognition and enforcement, including any appeal, the competent authority shall act expeditiously.

Article 25

Documents

- (1) An application for recognition and enforcement under Article 23 or Article 24 shall be accompanied by the following –
 - a) a complete text of the decision;
 - b) a document stating that the decision is enforceable in the State of origin and, in the case

- of a decision by an administrative authority, a document stating that the requirements of Article 19(3) are met unless that State has specified in accordance with Article 57 that decisions of its administrative authorities always meet those requirements;
- c) if the respondent did not appear and was not represented in the proceedings in the State of origin, a document or documents attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard, or that the respondent had proper notice of the decision and the opportunity to challenge or appeal it on fact and law;
 - d) where necessary, a document showing the amount of any arrears and the date such amount was calculated;
 - e) where necessary, in the case of a decision providing for automatic adjustment by indexation, a document providing the information necessary to make the appropriate calculations;
 - f) where necessary, documentation showing the extent to which the applicant received free legal assistance in the State of origin.
- (2) Upon a challenge or appeal under Article 23(7) c) or upon request by the competent authority in the State addressed, a complete copy of the document concerned, certified by the competent authority in the State of origin, shall be provided promptly –
- a) by the Central Authority of the requesting State, where the application has been made in accordance with Chapter III;
 - b) by the applicant, where the request has been made directly to a competent authority of the State addressed.
- (3) A Contracting State may specify in accordance with Article 57 –
- a) that a complete copy of the decision certified by the competent authority in the State of origin must accompany the application;
 - b) circumstances in which it will accept, in lieu of a complete text of the decision, an abstract or extract of the decision drawn up by the competent authority of the State of origin, which may be made in the form recommended and published by the Hague Conference on Private International Law; or
 - c) that it does not require a document stating that the requirements of Article 19(3) are met.

Article 26

Procedure on an application for recognition

This Chapter shall apply *mutatis mutandis* to an application for recognition of a decision, save that the requirement of enforceability is replaced by the requirement that the decision has effect in the State of origin.

Article 27

Findings of fact

Any competent authority of the State addressed shall be bound by the findings of fact on which the authority of the State of origin based its jurisdiction.

Article 28

No review of the merits

There shall be no review by any competent authority of the State addressed of the merits of a decision.

Article 29

Physical presence of the child or the applicant not required

The physical presence of the child or the applicant shall not be required in any proceedings in the State addressed under this Chapter.

Article 30
Maintenance arrangements

- (1) A maintenance arrangement made in a Contracting State shall be entitled to recognition and enforcement as a decision under this Chapter provided that it is enforceable as a decision in the State of origin.
- (2) For the purpose of Article 10(1) a) and b) and (2) a), the term "decision" includes a maintenance arrangement.
- (3) An application for recognition and enforcement of a maintenance arrangement shall be accompanied by the following –
 - a) a complete text of the maintenance arrangement; and
 - b) a document stating that the particular maintenance arrangement is enforceable as a decision in the State of origin.
- (4) Recognition and enforcement of a maintenance arrangement may be refused if –
 - a) the recognition and enforcement is manifestly incompatible with the public policy of the State addressed;
 - b) the maintenance arrangement was obtained by fraud or falsification;
 - c) the maintenance arrangement is incompatible with a decision rendered between the same parties and having the same purpose, either in the State addressed or in another State, provided that this latter decision fulfils the conditions necessary for its recognition and enforcement in the State addressed.
- (5) The provisions of this Chapter, with the exception of Articles 20, 22, 23(7) and 25(1) and (3), shall apply *mutatis mutandis* to the recognition and enforcement of a maintenance arrangement save that –
 - a) a declaration or registration in accordance with Article 23(2) and (3) may be refused only on the ground set out in paragraph 4 a);
 - b) a challenge or appeal as referred to in Article 23(6) may be founded only on the following –
 - i) the grounds for refusing recognition and enforcement set out in paragraph 4;
 - ii) the authenticity or integrity of any document transmitted in accordance with paragraph 3;
 - c) as regards the procedure under Article 24(4), the competent authority may review of its own motion the ground for refusing recognition and enforcement set out in paragraph 4 a) of this Article. It may review all grounds listed in paragraph 4 of this Article and the authenticity or integrity of any document transmitted in accordance with paragraph 3 if raised by the respondent or if concerns relating to those grounds arise from the face of those documents.
- (6) Proceedings for recognition and enforcement of a maintenance arrangement shall be suspended if a challenge concerning the arrangement is pending before a competent authority of a Contracting State.
- (7) A State may declare, in accordance with Article 63, that applications for recognition and enforcement of a maintenance arrangement shall only be made through Central Authorities.
- (8) A Contracting State may, in accordance with Article 62, reserve the right not to recognise and enforce a maintenance arrangement.

Article 31
Decisions produced by the combined effect
of provisional and confirmation orders

- Where a decision is produced by the combined effect of a provisional order made in one State and an order by an authority in another State ("the confirming State") confirming the provisional order –
- a) each of those States shall be deemed for the purposes of this Chapter to be a State of origin;
 - b) the requirements of Article 22 e) shall be met if the respondent had proper notice of the proceedings in the confirming State and an opportunity to oppose the confirmation of the provisional order;
 - c) the requirement of Article 20(6) that a decision be enforceable in the State of origin shall be met if the decision is enforceable in the confirming State; and
 - d) Article 18 shall not prevent proceedings for the modification of the decision being commenced in either State.

CHAPTER VI – ENFORCEMENT BY THE STATE ADDRESSED

Article 32 Enforcement under internal law

- (1) Subject to the provisions of this Chapter, enforcement shall take place in accordance with the law of the State addressed.
- (2) Enforcement shall be prompt.
- (3) In the case of applications through Central Authorities, where a decision has been declared enforceable or registered for enforcement under Chapter V, enforcement shall proceed without the need for further action by the applicant.
- (4) Effect shall be given to any rules applicable in the State of origin of the decision relating to the duration of the maintenance obligation.
- (5) Any limitation on the period for which arrears may be enforced shall be determined either by the law of the State of origin of the decision or by the law of the State addressed, whichever provides for the longer limitation period.

Article 33 Non-discrimination

The State addressed shall provide at least the same range of enforcement methods for cases under the Convention as are available in domestic cases.

Article 34 Enforcement measures

- (1) Contracting States shall make available in internal law effective measures to enforce decisions under this Convention.
- (2) Such measures may include –
 - a) wage withholding;
 - b) garnishment from bank accounts and other sources;
 - c) deductions from social security payments;
 - d) lien on or forced sale of property;
 - e) tax refund withholding;
 - f) withholding or attachment of pension benefits;
 - g) credit bureau reporting;
 - h) denial, suspension or revocation of various licenses (for example, driving licenses);
 - i) the use of mediation, conciliation or similar processes to bring about voluntary compliance.

Article 35 Transfer of funds

- (1) Contracting States are encouraged to promote, including by means of international agreements, the use of the most cost-effective and efficient methods available to transfer funds payable as maintenance.
- (2) A Contracting State, under whose law the transfer of funds is restricted, shall accord the highest priority to the transfer of funds payable under this Convention.

CHAPTER VII – PUBLIC BODIES

Article 36 Public bodies as applicants

- (1) For the purposes of applications for recognition and enforcement under Article 10(1) a) and b) and cases covered by Article 20(4), "creditor" includes a public body acting in place of an individual to whom maintenance is owed or one to which reimbursement is owed for benefits

- provided in place of maintenance.
- (2) The right of a public body to act in place of an individual to whom maintenance is owed or to seek reimbursement of benefits provided to the creditor in place of maintenance shall be governed by the law to which the body is subject.
 - (3) A public body may seek recognition or claim enforcement of –
 - a) a decision rendered against a debtor on the application of a public body which claims payment of benefits provided in place of maintenance;
 - b) a decision rendered between a creditor and debtor to the extent of the benefits provided to the creditor in place of maintenance.
 - (4) The public body seeking recognition or claiming enforcement of a decision shall upon request furnish any document necessary to establish its right under paragraph 2 and that benefits have been provided to the creditor.

CHAPTER VIII – GENERAL PROVISIONS

Article 37

Direct requests to competent authorities

- (1) The Convention shall not exclude the possibility of recourse to such procedures as may be available under the internal law of a Contracting State allowing a person (an applicant) to seise directly a competent authority of that State in a matter governed by the Convention including, subject to Article 18, for the purpose of having a maintenance decision established or modified.
- (2) Articles 14(5) and 17 b) and the provisions of Chapters V, VI, VII and this Chapter, with the exception of Articles 40(2), 42, 43(3), 44(3), 45 and 55, shall apply in relation to a request for recognition and enforcement made directly to a competent authority in a Contracting State.
- (3) For the purpose of paragraph 2, Article 2(1) a) shall apply to a decision granting maintenance to a vulnerable person over the age specified in that sub-paragraph where such decision was rendered before the person reached that age and provided for maintenance beyond that age by reason of the impairment.

Article 38

Protection of personal data

Personal data gathered or transmitted under the Convention shall be used only for the purposes for which they were gathered or transmitted.

Article 39

Confidentiality

Any authority processing information shall ensure its confidentiality in accordance with the law of its State.

Article 40

Non-disclosure of information

- (1) An authority shall not disclose or confirm information gathered or transmitted in application of this Convention if it determines that to do so could jeopardise the health, safety or liberty of a person.
- (2) A determination to this effect made by one Central Authority shall be taken into account by another Central Authority, in particular in cases of family violence.
- (3) Nothing in this Article shall impede the gathering and transmitting of information by and between authorities in so far as necessary to carry out the obligations under the Convention.

Article 41

No legalisation

No legalisation or similar formality may be required in the context of this Convention.

Article 42
Power of attorney

The Central Authority of the requested State may require a power of attorney from the applicant only if it acts on his or her behalf in judicial proceedings or before other authorities, or in order to designate a representative so to act.

Article 43
Recovery of costs

- (1) Recovery of any costs incurred in the application of this Convention shall not take precedence over the recovery of maintenance.
- (2) A State may recover costs from an unsuccessful party.
- (3) For the purposes of an application under Article 10(1) b) to recover costs from an unsuccessful party in accordance with paragraph 2, the term "creditor" in Article 10(1) shall include a State.
- (4) This Article shall be without prejudice to Article 8.

Article 44
Language requirements

- (1) Any application and related documents shall be in the original language, and shall be accompanied by a translation into an official language of the requested State or another language which the requested State has indicated, by way of declaration in accordance with Article 63, it will accept, unless the competent authority of that State dispenses with translation.
- (2) A Contracting State which has more than one official language and cannot, for reasons of internal law, accept for the whole of its territory documents in one of those languages shall, by declaration in accordance with Article 63, specify the language in which such documents or translations thereof shall be drawn up for submission in the specified parts of its territory.
- (3) Unless otherwise agreed by the Central Authorities, any other communications between such Authorities shall be in an official language of the requested State or in either English or French. However, a Contracting State may, by making a reservation in accordance with Article 62, object to the use of either English or French.

Article 45
Means and costs of translation

- (1) In the case of applications under Chapter III, the Central Authorities may agree in an individual case or generally that the translation into an official language of the requested State may be made in the requested State from the original language or from any other agreed language. If there is no agreement and it is not possible for the requesting Central Authority to comply with the requirements of Article 44(1) and (2), then the application and related documents may be transmitted with translation into English or French for further translation into an official language of the requested State.
- (2) The cost of translation arising from the application of paragraph 1 shall be borne by the requesting State unless otherwise agreed by Central Authorities of the States concerned.
- (3) Notwithstanding Article 8, the requesting Central Authority may charge an applicant for the costs of translation of an application and related documents, except in so far as those costs may be covered by its system of legal assistance.

Article 46
Non-unified legal systems -- interpretation

- (1) In relation to a State in which two or more systems of law or sets of rules of law with regard to any matter dealt with in this Convention apply in different territorial units --
 - a) any reference to the law or procedure of a State shall be construed as referring, where appropriate, to the law or procedure in force in the relevant territorial unit;
 - b) any reference to a decision established, recognised, recognised and enforced, enforced or modified in that State shall be construed as referring, where appropriate, to a decision

- established, recognised, recognised and enforced, enforced or modified in the relevant territorial unit;
- c) any reference to a judicial or administrative authority in that State shall be construed as referring, where appropriate, to a judicial or administrative authority in the relevant territorial unit;
 - d) any reference to competent authorities, public bodies, and other bodies of that State, other than Central Authorities, shall be construed as referring, where appropriate, to those authorised to act in the relevant territorial unit;
 - e) any reference to residence or habitual residence in that State shall be construed as referring, where appropriate, to residence or habitual residence in the relevant territorial unit;
 - f) any reference to location of assets in that State shall be construed as referring, where appropriate, to the location of assets in the relevant territorial unit;
 - g) any reference to a reciprocity arrangement in force in a State shall be construed as referring, where appropriate, to a reciprocity arrangement in force in the relevant territorial unit;
 - h) any reference to free legal assistance in that State shall be construed as referring, where appropriate, to free legal assistance in the relevant territorial unit;
 - i) any reference to a maintenance arrangement made in a State shall be construed as referring, where appropriate, to a maintenance arrangement made in the relevant territorial unit;
 - j) any reference to recovery of costs by a State shall be construed as referring, where appropriate, to the recovery of costs by the relevant territorial unit.
- (2) This Article shall not apply to a Regional Economic Integration Organisation.

Article 47

Non-unified legal systems -- substantive rules

- (1) A Contracting State with two or more territorial units in which different systems of law apply shall not be bound to apply this Convention to situations which involve solely such different territorial units.
- (2) A competent authority in a territorial unit of a Contracting State with two or more territorial units in which different systems of law apply shall not be bound to recognise or enforce a decision from another Contracting State solely because the decision has been recognised or enforced in another territorial unit of the same Contracting State under this Convention.
- (3) This Article shall not apply to a Regional Economic Integration Organisation.

Article 48

Co-ordination with prior Hague Maintenance Conventions

In relations between the Contracting States, this Convention replaces, subject to Article 56(2), the *Hague Convention of 2 October 1973 on the Recognition and Enforcement of Decisions Relating to Maintenance Obligations* and the *Hague Convention of 15 April 1958 concerning the recognition and enforcement of decisions relating to maintenance obligations towards children in so far as their scope of application as between such States coincides with the scope of application of this Convention*.

Article 49

Co-ordination with the 1956 New York Convention

In relations between the Contracting States, this Convention replaces the *United Nations Convention on the Recovery Abroad of Maintenance* of 20 June 1956, in so far as its scope of application as between such States coincides with the scope of application of this Convention.

Article 50

Relationship with prior Hague Conventions on service of documents and taking of evidence

This Convention does not affect the *Hague Convention of 1 March 1954 on civil procedure*, the *Hague Convention of 15 November 1965 on the Service Abroad of Judicial and Extrajudicial Documents in*

Civil or Commercial Matters and the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil or Commercial Matters.

Article 51

Co-ordination of instruments and supplementary agreements

- (1) This Convention does not affect any international instrument concluded before this Convention to which Contracting States are Parties and which contains provisions on matters governed by this Convention.
- (2) Any Contracting State may conclude with one or more Contracting States agreements, which contain provisions on matters governed by the Convention, with a view to improving the application of the Convention between or among themselves, provided that such agreements are consistent with the objects and purpose of the Convention and do not affect, in the relationship of such States with other Contracting States, the application of the provisions of the Convention. The States which have concluded such an agreement shall transmit a copy to the depositary of the Convention.
- (3) Paragraphs 1 and 2 shall also apply to reciprocity arrangements and to uniform laws based on special ties between the States concerned.
- (4) This Convention shall not affect the application of instruments of a Regional Economic Integration Organisation that is a Party to this Convention, adopted after the conclusion of the Convention, on matters governed by the Convention provided that such instruments do not affect, in the relationship of Member States of the Regional Economic Integration Organisation with other Contracting States, the application of the provisions of the Convention. As concerns the recognition or enforcement of decisions as between Member States of the Regional Economic Integration Organisation, the Convention shall not affect the rules of the Regional Economic Integration Organisation, whether adopted before or after the conclusion of the Convention.

Article 52

Most effective rule

- (1) This Convention shall not prevent the application of an agreement, arrangement or international instrument in force between the requesting State and the requested State, or a reciprocity arrangement in force in the requested State that provides for –
 - a) broader bases for recognition of maintenance decisions, without prejudice to Article 22 *f*) of the Convention;
 - b) simplified, more expeditious procedures on an application for recognition or recognition and enforcement of maintenance decisions;
 - c) more beneficial legal assistance than that provided for under Articles 14 to 17; or
 - d) procedures permitting an applicant from a requesting State to make a request directly to the Central Authority of the requested State.
- (2) This Convention shall not prevent the application of a law in force in the requested State that provides for more effective rules as referred to in paragraph 1 a) to c). However, as regards simplified, more expeditious procedures referred to in paragraph 1 b), they must be compatible with the protection offered to the parties under Articles 23 and 24, in particular as regards the rights of the parties to be duly notified of the proceedings and be given adequate opportunity to be heard and as regards the effects of any challenge or appeal.

Article 53

Uniform interpretation

In the interpretation of this Convention, regard shall be had to its international character and to the need to promote uniformity in its application.

Article 54

Review of practical operation of the Convention

- (1) The Secretary General of the Hague Conference on Private International Law shall at regular intervals convene a Special Commission in order to review the practical operation of the

- Convention and to encourage the development of good practices under the Convention.
- (2) For the purpose of such review, Contracting States shall co-operate with the Permanent Bureau of the Hague Conference on Private International Law in the gathering of information, including statistics and case law, concerning the practical operation of the Convention.

Article 55
Amendment of forms

- (1) The forms annexed to this Convention may be amended by a decision of a Special Commission convened by the Secretary General of the Hague Conference on Private International Law to which all Contracting States and all Members shall be invited. Notice of the proposal to amend the forms shall be included in the agenda for the meeting.
- (2) Amendments adopted by the Contracting States present at the Special Commission shall come into force for all Contracting States on the first day of the seventh calendar month after the date of their communication by the depositary to all Contracting States.
- (3) During the period provided for in paragraph 2 any Contracting State may by notification in writing to the depositary make a reservation, in accordance with Article 62, with respect to the amendment. The State making such reservation shall, until the reservation is withdrawn, be treated as a State not Party to the present Convention with respect to that amendment.

Article 56
Transitional provisions

- (1) The Convention shall apply in every case where –
- a) a request pursuant to Article 7 or an application pursuant to Chapter III has been received by the Central Authority of the requested State after the Convention has entered into force between the requesting State and the requested State;
 - b) a direct request for recognition and enforcement has been received by the competent authority of the State addressed after the Convention has entered into force between the State of origin and the State addressed.
- (2) With regard to the recognition and enforcement of decisions between Contracting States to this Convention that are also Parties to either of the Hague Maintenance Conventions mentioned in Article 48, if the conditions for the recognition and enforcement under this Convention prevent the recognition and enforcement of a decision given in the State of origin before the entry into force of this Convention for that State, that would otherwise have been recognised and enforced under the terms of the Convention that was in effect at the time the decision was rendered, the conditions of that Convention shall apply.
- (3) The State addressed shall not be bound under this Convention to enforce a decision or a maintenance arrangement, in respect of payments falling due prior to the entry into force of the Convention between the State of origin and the State addressed, except for maintenance obligations arising from a parent-child relationship towards a person under the age of 21 years.

Article 57
Provision of information concerning laws, procedures and services

- (1) A Contracting State, by the time its instrument of ratification or accession is deposited or a declaration is submitted in accordance with Article 61 of the Convention, shall provide the Permanent Bureau of the Hague Conference on Private International Law with –
- a) a description of its laws and procedures concerning maintenance obligations;
 - b) a description of the measures it will take to meet the obligations under Article 6;
 - c) a description of how it will provide applicants with effective access to procedures, as required under Article 14;
 - d) a description of its enforcement rules and procedures, including any limitations on enforcement, in particular debtor protection rules and limitation periods;
 - e) any specification referred to in Article 25(1) b) and (3).
- (2) Contracting States may, in fulfilling their obligations under paragraph 1, utilise a country profile form recommended and published by the Hague Conference on Private International Law.
- (3) Information shall be kept up to date by the Contracting States.

CHAPTER IX – FINAL PROVISIONS

Article 58 Signature, ratification and accession

- (1) The Convention shall be open for signature by the States which were Members of the Hague Conference on Private International Law at the time of its Twenty-First Session and by the other States which participated in that Session.
- (2) It shall be ratified, accepted or approved and the instruments of ratification, acceptance or approval shall be deposited with the Ministry of Foreign Affairs of the Kingdom of the Netherlands, depositary of the Convention.
- (3) Any other State or Regional Economic Integration Organisation may accede to the Convention after it has entered into force in accordance with Article 60(1).
- (4) The instrument of accession shall be deposited with the depositary.
- (5) Such accession shall have effect only as regards the relations between the acceding State and those Contracting States which have not raised an objection to its accession in the 12 months after the date of the notification referred to in Article 65. Such an objection may also be raised by States at the time when they ratify, accept or approve the Convention after an accession. Any such objection shall be notified to the depositary.

Article 59 Regional Economic Integration Organisations

- (1) A Regional Economic Integration Organisation which is constituted solely by sovereign States and has competence over some or all of the matters governed by this Convention may similarly sign, accept, approve or accede to this Convention. The Regional Economic Integration Organisation shall in that case have the rights and obligations of a Contracting State, to the extent that the Organisation has competence over matters governed by the Convention.
- (2) The Regional Economic Integration Organisation shall, at the time of signature, acceptance, approval or accession, notify the depositary in writing of the matters governed by this Convention in respect of which competence has been transferred to that Organisation by its Member States. The Organisation shall promptly notify the depositary in writing of any changes to its competence as specified in the most recent notice given under this paragraph.
- (3) At the time of signature, acceptance, approval or accession, a Regional Economic Integration Organisation may declare in accordance with Article 63 that it exercises competence over all the matters governed by this Convention and that the Member States which have transferred competence to the Regional Economic Integration Organisation in respect of the matter in question shall be bound by this Convention by virtue of the signature, acceptance, approval or accession of the Organisation.
- (4) For the purposes of the entry into force of this Convention, any instrument deposited by a Regional Economic Integration Organisation shall not be counted unless the Regional Economic Integration Organisation makes a declaration in accordance with paragraph 3.
- (5) Any reference to a "Contracting State" or "State" in this Convention shall apply equally to a Regional Economic Integration Organisation that is a Party to it, where appropriate. In the event that a declaration is made by a Regional Economic Integration Organisation in accordance with paragraph 3, any reference to a "Contracting State" or "State" in this Convention shall apply equally to the relevant Member States of the Organisation, where appropriate.

Article 60 Entry into force

- (1) The Convention shall enter into force on the first day of the month following the expiration of three months after the deposit of the second instrument of ratification, acceptance or approval referred to in Article 58.
- (2) Thereafter the Convention shall enter into force –
 - a) for each State or Regional Economic Integration Organisation referred to in Article 59(1) subsequently ratifying, accepting or approving it, on the first day of the month following the expiration of three months after the deposit of its instrument of ratification, acceptance or approval;

- b) for each State or Regional Economic Integration Organisation referred to in Article 58(3) on the day after the end of the period during which objections may be raised in accordance with Article 58(5);
- c) for a territorial unit to which the Convention has been extended in accordance with Article 61, on the first day of the month following the expiration of three months after the notification referred to in that Article.

Article 61

Declarations with respect to non-unified legal systems

- (1) If a State has two or more territorial units in which different systems of law are applicable in relation to matters dealt with in the Convention, it may at the time of signature, ratification, acceptance, approval or accession declare in accordance with Article 63 that this Convention shall extend to all its territorial units or only to one or more of them and may modify this declaration by submitting another declaration at any time.
- (2) Any such declaration shall be notified to the depositary and shall state expressly the territorial units to which the Convention applies.
- (3) If a State makes no declaration under this Article, the Convention shall extend to all territorial units of that State.
- (4) This Article shall not apply to a Regional Economic Integration Organisation.

Article 62

Reservations

- (1) Any Contracting State may, not later than the time of ratification, acceptance, approval or accession, or at the time of making a declaration in terms of Article 61, make one or more of the reservations provided for in Articles 2(2), 20(2), 30(8), 44(3) and 55(3). No other reservation shall be permitted.
- (2) Any State may at any time withdraw a reservation it has made. The withdrawal shall be notified to the depositary.
- (3) The reservation shall cease to have effect on the first day of the third calendar month after the notification referred to in paragraph 2.
- (4) Reservations under this Article shall have no reciprocal effect with the exception of the reservation provided for in Article 2(2).

Article 63

Declarations

- (1) Declarations referred to in Articles 2(3), 11(1) g), 16(1), 24(1), 30(7), 44(1) and (2), 59(3) and 61(1), may be made upon signature, ratification, acceptance, approval or accession or at any time thereafter, and may be modified or withdrawn at any time.
- (2) Declarations, modifications and withdrawals shall be notified to the depositary.
- (3) A declaration made at the time of signature, ratification, acceptance, approval or accession shall take effect simultaneously with the entry into force of this Convention for the State concerned.
- (4) A declaration made at a subsequent time, and any modification or withdrawal of a declaration, shall take effect on the first day of the month following the expiration of three months after the date on which the notification is received by the depositary.

Article 64

Denunciation

- (1) A Contracting State to the Convention may denounce it by a notification in writing addressed to the depositary. The denunciation may be limited to certain territorial units of a multi-unit State to which the Convention applies.
- (2) The denunciation shall take effect on the first day of the month following the expiration of 12 months after the date on which the notification is received by the depositary. Where a longer period for the denunciation to take effect is specified in the notification, the denunciation shall

take effect upon the expiration of such longer period after the date on which the notification is received by the depositary.

Article 65
Notification

The depositary shall notify the Members of the Hague Conference on Private International Law, and other States and Regional Economic Integration Organisations which have signed, ratified, accepted, approved or acceded in accordance with Articles 58 and 59 of the following –

- a) the signatures, ratifications, acceptances and approvals referred to in Articles 58 and 59;
- b) the accessions and objections raised to accessions referred to in Articles 58(3) and (5) and 59;
- c) the date on which the Convention enters into force in accordance with Article 60;
- d) the declarations referred to in Articles 2(3), 11(1) g), 16(1), 24(1), 30(7), 44(1) and (2), 59(3) and 61(1);
- e) the agreements referred to in Article 51(2);
- f) the reservations referred to in Articles 2(2), 20(2), 30(8), 44(3) and 55(3), and the withdrawals referred to in Article 62(2);
- g) the denunciations referred to in Article 64.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at The Hague, on the 23rd day of November 2007, in the English and French languages, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Government of the Kingdom of the Netherlands, and of which a certified copy shall be sent, through diplomatic channels, to each of the Members of the Hague Conference on Private International Law at the date of its Twenty-First Session and to each of the other States which have participated in that Session.

PUBLIC LAW 113-183—SEPT. 29, 2014

128 STAT. 1919

Public Law 113-183
113th Congress

An Act

To prevent and address sex trafficking of children in foster care, to extend and improve adoption incentives, and to improve international child support recovery.

Sept. 29, 2014
(H.R. 4980)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Preventing Sex Trafficking and Strengthening Families Act".

Preventing Sex
Trafficking and
Strengthening
Families Act,
42 USC 1305
note.

SEC. 2. TABLE OF CONTENTS.

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.

TITLE I—PROTECTING CHILDREN AND YOUTH AT RISK OF SEX
TRAFFICKING

Subtitle A—Identifying and Protecting Children and Youth at Risk of Sex
Trafficking

- Sec. 101. Identifying, documenting, and determining services for children and youth at risk of sex trafficking.
- Sec. 102. Reporting instances of sex trafficking.
- Sec. 103. Including sex trafficking data in the Adoption and Foster Care Analysis and Reporting System.
- Sec. 104. Locating and responding to children who run away from foster care.
- Sec. 105. Increasing information on children in foster care to prevent sex trafficking.

Subtitle B—Improving Opportunities for Children in Foster Care and Supporting
Permanency

- Sec. 111. Supporting normalcy for children in foster care.
- Sec. 112. Improving another planned permanent living arrangement as a permanency option.
- Sec. 113. Empowering foster children age 14 and older in the development of their own case plan and transition planning for a successful adulthood.
- Sec. 114. Ensuring foster children have a birth certificate, Social Security card, health insurance information, medical records, and a driver's license or equivalent State-issued identification card.
- Sec. 115. Information on children in foster care in annual reports using AFCARS data; consultation.

Subtitle C—National Advisory Committee

- Sec. 121. Establishment of a national advisory committee on the sex trafficking of children and youth in the United States.

TITLE II—IMPROVING ADOPTION INCENTIVES AND EXTENDING FAMILY
CONNECTION GRANTS

Subtitle A—Improving Adoption Incentive Payments

- Sec. 201. Extension of program through fiscal year 2016.

- Sec. 202. Improvements to award structure.
 Sec. 203. Renaming of program.
 Sec. 204. Limitation on use of incentive payments.
 Sec. 205. Increase in period for which incentive payments are available for expenditure.
 Sec. 206. State report on calculation and use of savings resulting from the phase-out of eligibility requirements for adoption assistance; requirement to spend 30 percent of savings on certain services.
 Sec. 207. Preservation of eligibility for kinship guardianship assistance payments with a successor guardian.
 Sec. 208. Data collection on adoption and legal guardianship disruption and dissolution.
 Sec. 209. Encouraging the placement of children in foster care with siblings.
 Sec. 210. Effective dates.

Subtitle B—Extending the Family Connection Grant Program

- Sec. 221. Extension of family connection grant program.

TITLE III—IMPROVING INTERNATIONAL CHILD SUPPORT RECOVERY

- Sec. 301. Amendments to ensure access to child support services for international child support cases.
 Sec. 302. Child support enforcement programs for Indian tribes.
 Sec. 303. Sense of the Congress regarding offering of voluntary parenting time arrangements.
 Sec. 304. Data exchange standardization for improved interoperability.
 Sec. 305. Report to Congress.
 Sec. 306. Required electronic processing of income withholding.

TITLE IV—BUDGETARY EFFECTS

- Sec. 401. Determination of budgetary effects.

SEC. 3. REFERENCES.

Except as otherwise expressly provided in this Act, wherever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the amendment shall be considered to be made to a section or other provision of the Social Security Act.

TITLE I—PROTECTING CHILDREN AND YOUTH AT RISK OF SEX TRAFFICKING

Subtitle A—Identifying and Protecting Children and Youth at Risk of Sex Trafficking

SEC. 101. IDENTIFYING, DOCUMENTING, AND DETERMINING SERVICES FOR CHILDREN AND YOUTH AT RISK OF SEX TRAFFICKING.

(a) **IN GENERAL.**—Section 471(a)(9) (42 U.S.C. 671(a)(9)) is amended—

- (1) in subparagraph (A), by striking “and”;
- (2) in subparagraph (B), by inserting “and” after the semicolon; and
- (3) by adding at the end the following:

“(C) not later than—

“(i) 1 year after the date of enactment of this subparagraph, demonstrate to the Secretary that the State agency has developed, in consultation with State and local law enforcement, juvenile justice systems, health care providers, education agencies, and organizations with experience in dealing with at-risk

Deadlines.

- (1) by striking "and" before "private"; and
- (2) by inserting "and institutions of higher education (as defined under section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001))," after "arrangements,".
- (c) FINDING FAMILIES FOR FOSTER CHILDREN WHO ARE PARENTS.—Section 427(a)(1)(E) (42 U.S.C. 627(a)(1)(E)) is amended by inserting "and other individuals who are willing and able to be foster parents for children in foster care under the responsibility of the State who are themselves parents" after "kinship care families".
- (d) RESERVATION OF FUNDS.—Section 427(g) (42 U.S.C. 627(g)) is amended—
- (1) by striking paragraph (1); and
- (2) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.
- (e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if enacted on October 1, 2013. 42 USC 627 note.

TITLE III—IMPROVING INTERNATIONAL CHILD SUPPORT RECOVERY

SEC. 301. AMENDMENTS TO ENSURE ACCESS TO CHILD SUPPORT SERVICES FOR INTERNATIONAL CHILD SUPPORT CASES.

(a) AUTHORITY OF THE SECRETARY OF HHS TO ENSURE COMPLIANCE WITH MULTILATERAL CHILD SUPPORT CONVENTIONS.—

(1) IN GENERAL.—Section 452 (42 U.S.C. 652) is amended—

(A) by redesignating the second subsection (l) (as added by section 7306 of the Deficit Reduction Act of 2005) as subsection (m); and

(B) by adding at the end the following:

"(n) The Secretary shall use the authorities otherwise provided by law to ensure the compliance of the United States with any multilateral child support convention to which the United States is a party."

(2) CONFORMING AMENDMENT.—Section 453(k)(3) (42 U.S.C. 653(k)(3)) is amended by striking "452(l)" and inserting "452(m)".

(b) ACCESS TO THE FEDERAL PARENT LOCATOR SERVICE.—Section 453(c) (42 U.S.C. 653(c)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following:

"(5) an entity designated as a Central Authority for child support enforcement in a foreign reciprocating country or a foreign treaty country for purposes specified in section 459A(c)(2)."

(c) STATE OPTION TO REQUIRE INDIVIDUALS IN FOREIGN COUNTRIES TO APPLY THROUGH THEIR COUNTRY'S APPROPRIATE CENTRAL AUTHORITY.—Section 454 (42 U.S.C. 654) is amended—

(1) in paragraph (4)(A)(ii), by inserting before the semicolon "except that, if the individual applying for the services resides in a foreign reciprocating country or foreign treaty country, the State may opt to require the individual to request the services through the Central Authority for child support enforcement in the foreign reciprocating country or the foreign

treaty country, and if the individual resides in a foreign country that is not a foreign reciprocating country or a foreign treaty country, a State may accept or reject the application"; and

(2) in paragraph (3)—

(A) in subparagraph (A), by inserting ", a foreign treaty country," after "a foreign reciprocating country"; and

(B) in subparagraph (C), by striking "or foreign obligee" and inserting ", foreign treaty country, or foreign individual".

(d) AMENDMENTS TO INTERNATIONAL SUPPORT ENFORCEMENT PROVISIONS.—Section 459A (42 U.S.C. 659a) is amended—

(1) by adding at the end the following:

"(e) REFERENCES.—In this part:

"(1) FOREIGN RECIPROCATING COUNTRY.—The term 'foreign reciprocating country' means a foreign country (or political subdivision thereof) with respect to which the Secretary has made a declaration pursuant to subsection (a).

"(2) FOREIGN TREATY COUNTRY.—The term 'foreign treaty country' means a foreign country for which the 2007 Family Maintenance Convention is in force.

"(3) 2007 FAMILY MAINTENANCE CONVENTION.—The term '2007 Family Maintenance Convention' means the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance,"

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking "foreign countries that are the subject of a declaration under this section" and inserting "foreign reciprocating countries or foreign treaty countries"; and

(B) in paragraph (2), by inserting "and foreign treaty countries" after "foreign reciprocating countries"; and

(3) in subsection (d), by striking "the subject of a declaration pursuant to subsection (a)" and inserting "foreign reciprocating countries or foreign treaty countries".

(e) COLLECTION OF PAST-DUE SUPPORT FROM FEDERAL TAX REFUNDS.—Section 464(a)(2)(A) (42 U.S.C. 664(a)(2)(A)) is amended by striking "under section 454(4)(A)(ii)" and inserting "under paragraph (4)(A)(ii) or (32) of section 454".

(f) STATE LAW REQUIREMENT CONCERNING THE UNIFORM INTERSTATE FAMILY SUPPORT ACT (UIFSA).—

(1) IN GENERAL.—Section 466(f) (42 U.S.C. 666(f)) is amended—

(A) by striking "on and after January 1, 1998,";

(B) by striking "and as in effect on August 22, 1996,";

and

(C) by striking "adopted as of such date" and inserting "adopted as of September 30, 2008".

(2) CONFORMING AMENDMENTS TO TITLE 28, UNITED STATES CODE.—Section 1738B of title 28, United States Code, is amended—

(A) in subsection (d), by striking "individual contestant" and inserting "individual contestant or the parties have consented in a record or open court that the tribunal of the State may continue to exercise jurisdiction to modify its order,";

(B) in subsection (e)(2)(A), by striking "individual contestant" and inserting "individual contestant and the

parties have not consented in a record or open court that the tribunal of the other State may continue to exercise jurisdiction to modify its order"; and

(C) in subsection (b)—

(i) by striking "child' means" and inserting "(1) The term 'child' means";

(ii) by striking "child's State' means" and inserting "(2) The term 'child's State' means";

(iii) by striking "child's home State' means" and inserting "(3) The term 'child's home State' means";

(iv) by striking "child support' means" and inserting "(4) The term 'child support' means";

(v) by striking "child support order" and inserting "(5) The term 'child support order'";

(vi) by striking "contestant' means" and inserting "(6) The term 'contestant' means";

(vii) by striking "court' means" and inserting "(7) The term 'court' means";

(viii) by striking "modification' means" and inserting "(8) The term 'modification' means"; and

(ix) by striking "State' means" and inserting "(9) The term 'State' means".

(3) EFFECTIVE DATE; GRACE PERIOD FOR STATE LAW CHANGES.—

(A) PARAGRAPH (1).—(i) The amendments made by paragraph (1) shall take effect with respect to a State no later than the effective date of laws enacted by the legislature of the State implementing such paragraph, but in no event later than the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

42 USC 606 note.

(ii) For purposes of clause (i), in the case of a State that has a 2-year legislative session, each year of the session shall be deemed to be a separate regular session of the State legislature.

(B) PARAGRAPH (2).—(i) The amendments made by subparagraphs (A) and (B) of paragraph (2) shall take effect on the date on which the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance enters into force for the United States.

28 USC 1738B note.

(ii) The amendments made by subparagraph (C) of paragraph (2) shall take effect on the date of the enactment of this Act.

SEC. 302. CHILD SUPPORT ENFORCEMENT PROGRAMS FOR INDIAN TRIBES.

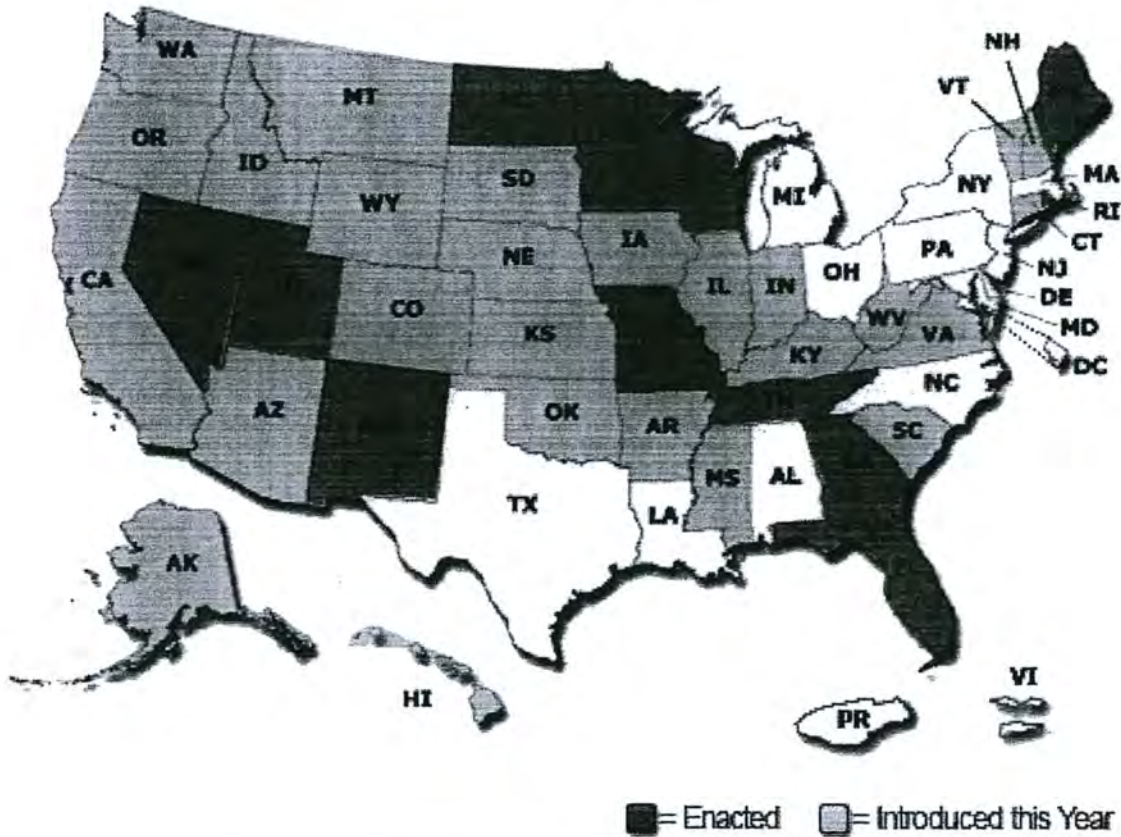
(a) TRIBAL ACCESS TO THE FEDERAL PARENT LOCATOR SERVICE.—Section 453(c)(1) (42 U.S.C. 659(c)(1)) is amended by inserting "or Indian tribe or tribal organization (as defined in subsections (e) and (l) of section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)), after "any State".

(b) WAIVER AUTHORITY FOR INDIAN TRIBES OR TRIBAL ORGANIZATIONS OPERATING CHILD SUPPORT ENFORCEMENT PROGRAMS.—Section 1115(b) (42 U.S.C. 1315(b)) is amended—



Contact Us: 312.450.6600

Legislative Enactment Status Interstate Family Support Act Amendments (2008)



Generated on Tuesday, March 10, 2015, 5:23 PM

- [Home](#)
- [Acts](#)
- [Committees](#)
- [Legislation](#)
- [Meetings](#)
- [News](#)
- [About ULC](#)

© 2015 The National Conference of Commissioners on Uniform State Laws. All Rights Reserved.

111 N. Wabash Avenue Suite 1010 Chicago, Illinois 60602



Uniform Law Commission

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

111 N. Wabash Ave.
Suite 1010
Chicago, IL 60602
(312) 450-6600 tel
(312) 450-6601 fax
www.uniformlaws.org

THE UNIFORM INTERSTATE FAMILY SUPPORT ACT AMENDMENTS (2008)

- A Summary -

The Uniform Interstate Family Support Act (UIFSA) provides universal and uniform rules for the enforcement of family support orders by: setting basic jurisdictional standards for state courts; determining the basis for a state to exercise continuing exclusive jurisdiction over a child support proceeding; establishing rules for determining which state issues the controlling order in the event proceedings are initiated in multiple jurisdictions; and providing rules for modifying or refusing to modify another state's child support order.

In November 2007, the United States signed the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance ("the Convention"). This Convention contains numerous provisions that establish uniform procedures for the processing of international child support cases. In July 2008, the Uniform Law Commission amended UIFSA to incorporate changes required by the Convention. In order for the United States to fully accede to the Convention it was necessary to modify UIFSA by incorporating provisions of the Convention that impact existing state law. The 2008 UIFSA amendments serve as the implementing language for the Convention throughout the states. Importantly, enacting the UIFSA amendments will improve the enforcement of American child support orders abroad and will ensure that children residing in the United States will receive the financial support due from parents, wherever the parents reside.

The bulk of the 2008 amendments are housed in a new section of UIFSA: Section 7. The new section provides guidelines and procedures for the registration, recognition, enforcement and modification of foreign support orders from countries that are parties to the Convention. Specifically, Section 7 provides that a support order from a country that has acceded to the Convention must be registered immediately unless a tribunal in the state where the registration is sought determines that the language of the order goes against the policy of the state. Once registered, the non-registering party receives notice and is allowed the opportunity to challenge the order on certain grounds. Unless one of the grounds for denying recognition is established, the order is to be enforced. Additionally, Section 7 requires documents submitted under the Convention be in the original language and a translated version submitted if the original language is not English.

In September 2014, Congress passed federal implementing legislation for the Convention. Importantly, the new law (the Preventing Sex Trafficking and Strengthening Families Act) requires that the 2008 UIFSA amendments be enacted in every jurisdiction as a condition for continued receipt of federal funds supporting state child support programs. Failure to enact these amendments during the 2015 legislative session may result in a state's loss of this important federal funding.



Uniform Law Commission

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

111 N. Wabash Ave.
Suite 1010
Chicago, IL 60602
(312) 450-6600 tel
(312) 450-6601 fax
www.uniformlaws.org

WHY STATES SHOULD ADOPT THE UNIFORM INTERSTATE FAMILY SUPPORT ACT 2008 AMENDMENTS

The Uniform Interstate Family Support Act (UIFSA) provides universal and uniform rules for the enforcement of family support orders. UIFSA represents a collaborative effort among the Uniform Law Commission (“ULC”), federal and state child support officials, and representatives of national child support organizations.

In 2008, the ULC approved amendments to UIFSA to incorporate the provisions of the 2007 Hague Convention on the International Recovery of Child Support of Family Maintenance into state law (“the Convention”). The Convention contains numerous provisions that establish uniform procedures for the processing of international child support cases. When the 2008 amendments were approved, all U.S. jurisdictions had in place a version of UIFSA.

The 2008 UIFSA amendments serve as the implementing language for the Convention throughout the states. The 2014 Preventing Sex Trafficking and Strengthening Families Act serves as the federal implementing legislation for the Convention.

All states should act expeditiously to enact the UIFSA 2008 amendments during their 2015 legislative session for the following reasons:

- **Funding** – The 2014 federal law requires that all states enact the 2008 UIFSA amendments by the end of their 2015 legislative session as a condition for continued receipt of federal funds supporting state child support programs. Failure to enact these amendments by that time may result in a state’s loss of important federal funding. This conditional approach is not new; another federal law required all states to enact a previous version of UIFSA within a certain timeframe in order to receive the same federal funds for state child support programs. All jurisdictions complied.
- **Enhanced Recognition Abroad** – Enactment of the 2008 UIFSA amendments will improve the enforcement of American child support orders abroad and will ensure that children residing in the United States will receive the financial support due from parents, wherever the parents reside.
- **Guidelines for Foreign Support Orders** – The amendments provide guidelines and procedures for the registration, enforcement, and modification of foreign support orders from countries that are parties to the Convention.
- **Limited Changes** – The 2008 changes to UIFSA were limited to those necessary to accommodate the Convention. Sections 2-6 are largely unchanged, and a new Section 7 contains all rules applicable to cases involving the Convention.

The ULC is a nonprofit formed in 1892 to create nonpartisan state legislation. Over 350 volunteer commissioners—lawyers, judges, law professors, legislative staff, and others—work together to draft laws ranging from the Uniform Commercial Code to acts on property, trusts and estates, family law, criminal law and other areas where uniformity of state law is desirable.



Uniform Law Commission
NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

Lindsay Beaver
Legislative Counsel
111 N. Wabash Ave.
Suite 1010
Chicago, IL 60602
(312) 450-6618 direct
lbeaver@uniformlaws.org
www.uniformlaws.org

Statement of Lindsay Beaver, Legislative Counsel from the Uniform Law Commission, to the Senate Judiciary Committee in support of SB 51 – Uniform Interstate Family Support Act (2008)

Chairman McGuire and Members of the Committee:

The Uniform Law Commission (ULC) has a long history of developing uniform acts intended to reduce the diversity of child support and family maintenance law and ensure the recognition and enforcement of child support orders.

Since 1998, the Uniform Interstate Family Support Act (UIFSA) has been the law of every state in the country, including Alaska. Since its initial adoption in 1992, UIFSA has provided universal and uniform rules for the enforcement of family support orders in the states, and has served as the basis for interstate establishment and enforcement of support obligations. UIFSA is used daily in the numerous interstate cases which are processed through the child support system in the United States, and is familiar to attorneys, judges, and support case workers.

In an age of globalization, the international expansion of consistent rules for enforcement of child support, such as those provided under UIFSA, seems a natural development and one which the ULC believes will be advantageous to American citizens both domestically and internationally. In 2007, the United States signed the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. The Convention will provide a mechanism whereby support orders of tribunals of the United States will be recognized and enforced in other countries. Although tribunals in the United States, as a general matter, already recognize and enforce the orders of foreign tribunals, the reverse is not always the case.

In time, it is anticipated that the Convention will achieve a high level of integration with many other countries. This will help assure acceptance of American orders in other lands. No longer will American citizens have to re-litigate support matters in a distant country or forego support altogether.

The establishment, enforcement, and modification of family support are basically matters of state law. Thus, UIFSA was deemed a logical vehicle for implementing the provisions of the Convention. The ULC was well positioned to carry out this approach because of its experience with the subject matter and its mission of fostering uniformity in state law.

The ULC worked closely with family law practitioners, family court judges, state and national child support organizations, and representatives from the federal government to draft amendments that would implement the Convention provisions without imposing burdensome changes to existing state practices. Accordingly, the changes made to UIFSA in 2008 were limited to only those necessary to accommodate the Convention.

Congress, via the 2014 Preventing Sex Trafficking and Strengthening Families Act, is now requiring that all states update their version of UIFSA to reflect changes made to the act by the ULC as of 2008. Specifically, the new federal law requires that all states enact the 2008 version of UIFSA by the end of their 2015 legislative session in order to continue receiving federal funds supporting state child support programs.

Recognizing the importance of the changes for international child support orders, twelve states have already enacted UIFSA 2008. It is expected that all remaining states will enact the updated version of UIFSA during this legislative session.

I urge your support of SB 51 to update Alaska's version of UIFSA. Doing so will improve the enforcement of Alaska's and other American child support orders abroad, ensuring that more children residing in the United States will receive the financial support due from parents, wherever the parents reside.

Please let me know if you would like further information.



U.S. DEPARTMENT OF STATE
DIPLOMACY IN ACTION

Senate Approval of the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance

Remarks
Hillary Rodham Clinton
Secretary of State
Washington, DC
October 1, 2010

On Wednesday September 29, the U.S. Senate approved the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. The United States has been active in the Convention's development since negotiations began in 2003, and we were the first country to sign the Convention in 2007. This week, we have taken another step toward ratification, again reaffirming our commitment to protecting the welfare of children around the world.

Protecting our most vulnerable citizens, especially children, is one of the primary duties of any government. When a child and one parent are in one country while the other parent is in a different country, recovering child support can be difficult and often impossible. The United States has a comprehensive system in place to establish, recognize, and enforce domestic and international child support obligations. The Convention requires that all treaty partners develop similar systems to facilitate the recovery of funds between nations. This will help more children around the world receive the support they need more expeditiously than ever before.

The Department of State will continue to work closely with the Department of Health and Human Services as we continue toward ratification by the full Senate and the United States becoming a party to the Convention.

We look forward to working with the Hague Conference and other countries to implement this important Convention worldwide.

FBI 10/1/10



U.S. DEPARTMENT OF STATE
DIPLOMACY IN ACTION

President Obama Signs Implementing Legislation for the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance

Press Statement
John Kerry
Secretary of State
Washington, DC
September 30, 2014

I was the Chairman of the Foreign Relations Committee when the Senate unanimously gave its advice and consent to ratify the Child Support Convention.

Back when I was a prosecutor, I saw how hard too many families had to scrape and claw just to receive their just support, and I saw how for the United States came in the last decades of fighting that wrong. It was the right thing to do to help families in the United States and other countries get what is rightfully theirs. I am grateful to Congress for passing this important implementing legislation. It's a reminder of how the Administration and Congress can work together across party lines to help lead the international community on issues that really matter in people's lives.

The United States was the first country to sign the Convention in 2007. Protection of our most vulnerable citizens, our children, is fundamental to who we are. We stick up for kids. We protect the innocent. Every child deserves to be supported by both parents. We know that recovering child support when the child and one parent are in one country and the other parent is in another is difficult and too often impossible. The United States has a comprehensive system to establish, recognize and enforce domestic and international child support obligations. This Convention just requires that all treaty partners have similar systems in place and as a result, more children in the United States and abroad will be receiving more support, more expeditiously than ever before.

42 USC 666: Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement

Text contains those laws in effect on February 22, 2015

From Title 42-THE PUBLIC HEALTH AND WELFARE

CHAPTER 7-SOCIAL SECURITY

SUBCHAPTER IV-GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH

CHILDREN AND FOR CHILD-WELFARE SERVICES

Part D-Child Support and Establishment of Paternity

Jump To:

[Source Credit](#)

[Future Amendments](#)

[References In Text](#)

[Codification](#)

[Amendments](#)

[Effective Date](#)

[Miscellaneous](#)

§666. Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement

(a) Types of procedures required

In order to satisfy section 654(20)(A) of this title, each State must have in effect laws requiring the use of the following procedures, consistent with this section and with regulations of the Secretary, to increase the effectiveness of the program which the State administers under this part:

(1)(A) Procedures described in subsection (b) of this section for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.

(B) Procedures under which the income of a person with a support obligation imposed by a support order issued (or modified) in the State before January 1, 1994, if not otherwise subject to withholding under subsection (b) of this section, shall become subject to withholding as provided in subsection (b) of this section if arrearages occur, without the need for a judicial or administrative hearing.

(2) Expedited administrative and judicial procedures (including the procedures specified in subsection (c) of this section) for establishing paternity and for establishing, modifying, and enforcing support obligations. The Secretary may waive the provisions of this paragraph with respect to one or more political subdivisions within the State on the basis of the effectiveness and timeliness of support order issuance and enforcement or paternity establishment within the political subdivision (in accordance with the general rule for exemptions under subsection (d) of this section).

(3) Procedures under which the State child support enforcement agency shall request, and the State shall provide, that for the purpose of enforcing a support order under any State plan approved under this part-

(A) any refund of State income tax which would otherwise be payable to a noncustodial parent will be reduced, after notice has been sent to that noncustodial parent of the proposed reduction and the procedures to be followed to contest it (and after full compliance with all procedural due process requirements of the State), by the amount of any overdue support owed by such noncustodial parent;

(B) the amount by which such refund is reduced shall be distributed in accordance with section 657 of this title in the case of overdue support assigned to a State pursuant to section 608(a)(3) or 671(a)(17) of this title, or, in any other case, shall be distributed, after deduction of any fees imposed by the State to cover the costs of collection, to the child or parent to whom such support is owed; and

(C) notice of the noncustodial parent's social security account number (or numbers, if he has more than one such number) and home address shall be furnished to the State agency requesting the refund offset, and to the State agency enforcing the order.

(4) Liens.-Procedures under which-

(A) liens arise by operation of law against real and personal property for amounts of overdue support owed by a noncustodial parent who resides or owns property in the State; and

(B) the State accords full faith and credit to liens described in subparagraph (A) arising in another State, when the State agency, party, or other entity seeking to enforce such a lien complies with the procedural rules relating to recording or serving liens that arise within the State, except that such rules may not require judicial notice or hearing prior to the enforcement of such a lien.

(5) Procedures concerning paternity establishment.-**(A) Establishment process available from birth until age 18.-**

(i) Procedures which permit the establishment of the paternity of a child at any time before the child attains 18 years of age.

(ii) As of August 16, 1984, clause (i) shall also apply to a child for whom paternity has not been established or for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.

(B) Procedures concerning genetic testing.-

(i) Genetic testing required in certain contested cases.-Procedures under which the State is required, in a contested paternity case (unless otherwise barred by State law) to require the child and all other parties (other than individuals found under section 654(29) of this title to have good cause and other exceptions for refusing to cooperate) to submit to genetic tests upon the request of any such party, if the request is supported by a sworn statement by the party-

(I) alleging paternity, and setting forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

(II) denying paternity, and setting forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the parties.

(ii) Other requirements.-Procedures which require the State agency, in any case in which the agency orders genetic testing-

(I) to pay costs of such tests, subject to recoupment (if the State so elects) from the alleged father if paternity is established; and

(II) to obtain additional testing in any case if an original test result is contested, upon request and advance payment by the contestant.

(C) Voluntary paternity acknowledgment.-

(i) Simple civil process.-Procedures for a simple civil process for voluntarily acknowledging paternity under which the State must provide that, before a mother and a putative father can sign an acknowledgment of paternity, the mother and the putative father must be given notice, orally, or through the use of video or audio equipment, and in writing, of the alternatives to, the legal consequences of, and the rights (including, if 1 parent is a minor, any rights afforded due to minority status) and responsibilities that arise from, signing the acknowledgment.

(ii) Hospital-based program.-Such procedures must include a hospital-based program for the voluntary acknowledgment of paternity focusing on the period immediately before or after the birth of a child.

(iii) Paternity establishment services.-

(I) State-offered services.-Such procedures must require the State agency responsible for maintaining birth records to offer voluntary paternity establishment services.

(II) Regulations.-

(aa) Services offered by hospitals and birth record agencies.-The Secretary shall prescribe regulations governing voluntary paternity establishment services offered by hospitals and birth record agencies.

(bb) Services offered by other entities.-The Secretary shall prescribe regulations specifying the types of other entities that may offer voluntary paternity establishment services, and governing the provision of such services, which shall include a requirement that such an entity must use the same notice provisions used by, use the same materials used by, provide the personnel providing such services with the same training provided by, and evaluate the provision of such services in the same manner as the provision of such services is evaluated by, voluntary paternity establishment programs of hospitals and birth record agencies.

(iv) Use of paternity acknowledgment affidavit.-Such procedures must require the State to develop and use an affidavit for the voluntary acknowledgment of paternity which includes the minimum requirements of the affidavit specified by the Secretary under section 652(a)(7) of this title for the voluntary acknowledgment of paternity, and to give full faith and credit to such an affidavit signed in any other State according to its procedures.

(D) Status of signed paternity acknowledgment.-

(i) Inclusion in birth records.-Procedures under which the name of the father shall be included on the record of birth of the child of unmarried parents only if-

(I) the father and mother have signed a voluntary acknowledgment of paternity; or

(II) a court or an administrative agency of competent jurisdiction has issued an adjudication of paternity.

Nothing in this clause shall preclude a State agency from obtaining an admission of paternity from the father for submission in a judicial or administrative proceeding, or prohibit the issuance of an order in a judicial or administrative proceeding which bases a legal finding of paternity on an admission of paternity by the father and any other additional showing required by State law.

(ii) Legal finding of paternity.-Procedures under which a signed voluntary acknowledgment of paternity is considered a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within the earlier of-

(I) 60 days; or

(II) the date of an administrative or judicial proceeding relating to the child (including a proceeding to establish a support order) in which the signatory is a party.

(iii) Contest.-Procedures under which, after the 60-day period referred to in clause (ii), a signed voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger, and under which the legal responsibilities (including child support obligations) of any signatory arising from the acknowledgment may not be suspended during the challenge, except for good cause shown.

(E) Bar on acknowledgment ratification proceedings.-Procedures under which judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

(F) Admissibility of genetic testing results.-Procedures-

(i) requiring the admission into evidence, for purposes of establishing paternity, of the results of any genetic test that is-

(I) of a type generally acknowledged as reliable by accreditation bodies designated by the Secretary; and

(II) performed by a laboratory approved by such an accreditation body;

(ii) requiring an objection to genetic testing results to be made in writing not later than a specified number of days before any hearing at which the results may be introduced into evidence (or, at State option, not later than a specified number of days after receipt of the results); and

(iii) making the test results admissible as evidence of paternity without the need for foundation testimony or other proof of authenticity or accuracy, unless objection is made.

(G) Presumption of paternity in certain cases.-Procedures which create a rebuttable or, at the option of the State, conclusive presumption of paternity upon genetic testing results indicating a threshold probability that the alleged father is the father of the child.

(H) Default orders.-Procedures requiring a default order to be entered in a paternity case upon a showing of service of process on the defendant and any additional showing required by State law.

(I) No right to jury trial.-Procedures providing that the parties to an action to establish paternity are not entitled to a trial by jury.

(J) Temporary support order based on probable paternity in contested cases.-Procedures which require that a temporary order be issued, upon motion by a party, requiring the provision of child support pending an administrative or judicial determination of parentage, if there is clear and convincing evidence of paternity (on the basis of genetic tests or other evidence).

(K) Proof of certain support and paternity establishment costs.-Procedures under which bills for pregnancy, childbirth, and genetic testing are admissible as evidence without requiring third-party foundation testimony, and shall constitute prima facie evidence of amounts incurred for such services or for testing on behalf of the child.

(L) Standing of putative fathers.-Procedures ensuring that the putative father has a reasonable opportunity to initiate a paternity action.

(M) Filing of acknowledgments and adjudications in state registry of birth records.-Procedures under which voluntary acknowledgments and adjudications of paternity by judicial or administrative processes are filed with the State registry of birth records for comparison with information in the State case registry.

(6) Procedures which require that a noncustodial parent give security, post a bond, or give some other guarantee to secure payment of overdue support, after notice has been sent to such noncustodial parent of the proposed action and of the procedures to be followed to contest it (and after full compliance with all procedural due process requirements of the State).

(7) Reporting arrearages to credit bureaus.

(A) In general.-Procedures (subject to safeguards pursuant to subparagraph (B)) requiring the State to report periodically to consumer reporting agencies (as defined in section 1681a(f) of title 15) the name of any noncustodial parent who is delinquent in the payment of support, and the amount of overdue support owed by such parent.

(B) Safeguards.-Procedures ensuring that, in carrying out subparagraph (A), information with respect to a noncustodial parent is reported-

- (i) only after such parent has been afforded all due process required under State law, including notice and a reasonable opportunity to contest the accuracy of such information; and
- (ii) only to an entity that has furnished evidence satisfactory to the State that the entity is a consumer reporting agency (as so defined).

(8)(A) Procedures under which all child support orders not described in subparagraph (B) will include provision for withholding from income, in order to assure that withholding as a means of collecting child support is available if arrearages occur without the necessity of filing application for services under this part.

(B) Procedures under which all child support orders which are initially issued in the State on or after January 1, 1994, and are not being enforced under this part will include the following requirements:

- (i) The income of a noncustodial parent shall be subject to withholding, regardless of whether support payments by such parent are in arrears, on the effective date of the order; except that such income shall not be subject to withholding under this clause in any case where (I) one of the parties demonstrates, and the court (or administrative process) finds, that there is good cause not to require immediate income withholding, or (II) a written agreement is reached between both parties which provides for an alternative arrangement.
- (ii) The requirements of subsection (b)(1) of this section (which shall apply in the case of each noncustodial parent against whom a support order is or has been issued or modified in the State, without regard to whether the order is being enforced under the State plan).
- (iii) The requirements of paragraphs (2), (5), (6), (7), (8), (9), and (10) of subsection (b) of this section, where applicable.
- (iv) Withholding from income of amounts payable as support must be carried out in full compliance with all procedural due process requirements of the State.

(9) Procedures which require that any payment or installment of support under any child support order, whether ordered through the State judicial system or through the expedited processes required by paragraph (2), is (on and after the date it is due)-

- (A) a judgment by operation of law, with the full force, effect, and attributes of a judgment of the State, including the ability to be enforced,
- (B) entitled as a judgment to full faith and credit in such State and in any other State, and
- (C) not subject to retroactive modification by such State or by any other State;

except that such procedures may permit modification with respect to any period during which there is pending a petition for modification, but only from the date that notice of such petition has been given, either directly or through the appropriate agent, to the obligee or (where the obligee is the petitioner) to the obligor.

(10) Review and adjustment of support orders upon request.

(A) 3-year cycle.

(i) In general.-Procedures under which every 3 years (or such shorter cycle as the State may determine), upon the request of either parent or if there is an assignment under part A of this subchapter, the State shall with respect to a support order being enforced under this part, taking into account the best interests of the child involved-

(I) review and, if appropriate, adjust the order in accordance with the guidelines established pursuant to section 667(a) of this title if the amount of the child support award under the order differs from the amount that would be awarded in accordance with the guidelines;

(II) apply a cost-of-living adjustment to the order in accordance with a formula developed by the State; or

(III) use automated methods (including automated comparisons with wage or State income tax data) to identify orders eligible for review, conduct the review, identify orders eligible for adjustment, and apply the appropriate adjustment to the orders eligible for adjustment under any threshold that may be established by the State.

(ii) Opportunity to request review of adjustment.-If the State elects to conduct the review under subclause (II) or (III) of clause (i), procedures which permit either party to contest the adjustment,

within 30 days after the date of the notice of the adjustment, by making a request for review and, if appropriate, adjustment of the order in accordance with the child support guidelines established pursuant to section 667(a) of this title.

(iii) No proof of change in circumstances necessary in 3-year cycle review.-Procedures which provide that any adjustment under clause (i) shall be made without a requirement for proof or showing of a change in circumstances.

(B) Proof of substantial change in circumstances necessary in request for review outside 3-year cycle.-Procedures under which, in the case of a request for a review, and if appropriate, an adjustment outside the 3-year cycle (or such shorter cycle as the State may determine) under clause (i), the State shall review and, if the requesting party demonstrates a substantial change in circumstances, adjust the order in accordance with the guidelines established pursuant to section 667(a) of this title.

(C) Notice of right to review.-Procedures which require the State to provide notice not less than once every 3 years to the parents subject to the order informing the parents of their right to request the State to review and, if appropriate, adjust the order pursuant to this paragraph. The notice may be included in the order.

(11) Procedures under which a State must give full faith and credit to a determination of paternity made by any other State, whether established through voluntary acknowledgment or through administrative or judicial processes.

(12) Locator information from interstate networks.-Procedures to ensure that all Federal and State agencies conducting activities under this part have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement.

(13) Recording of social security numbers in certain family matters.-Procedures requiring that the social security number of-

(A) any applicant for a professional license, driver's license, occupational license, recreational license, or marriage license be recorded on the application;

(B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and

(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.

For purposes of subparagraph (A), if a State allows the use of a number other than the social security number to be used on the face of the document while the social security number is kept on file at the agency, the State shall so advise any applicants.

(14) High-volume, automated administrative enforcement in interstate cases.-

(A) In general.-Procedures under which-

(i) the State shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request made by another State to enforce support orders, and shall promptly report the results of such enforcement procedure to the requesting State;

(ii) the State may, by electronic or other means, transmit to another State a request for assistance in enforcing support orders through high-volume, automated administrative enforcement, which request-

(I) shall include such information as will enable the State to which the request is transmitted to compare the information about the cases to the information in the data bases of the State; and

(II) shall constitute a certification by the requesting State-

(aa) of the amount of support under an order the payment of which is in arrears; and

(bb) that the requesting State has complied with all procedural due process requirements applicable to each case;

(iii) if the State provides assistance to another State pursuant to this paragraph with respect to a case, neither State shall consider the case to be transferred to the caseload of such other State (but the assisting State may establish a corresponding case based on such other State's request for assistance); and

(iv) the State shall maintain records of-

(I) the number of such requests for assistance received by the State;

(II) the number of cases for which the State collected support in response to such a request; and

(III) the amount of such collected support.

(B) High-volume automated administrative enforcement.-In this part, the term "high-volume automated administrative enforcement", in interstate cases, means, on request of another State, the identification by a State, through automated data matches with financial institutions and other entities

where assets may be found, of assets owned by persons who owe child support in other States, and the seizure of such assets by the State, through levy or other appropriate processes.

(15) Procedures to ensure that persons owing overdue support work or have a plan for payment of such support.-Procedures under which the State has the authority, in any case in which an individual owes overdue support with respect to a child receiving assistance under a State program funded under part A of this subchapter, to issue an order or to request that a court or an administrative process established pursuant to State law issue an order that requires the individual to-

(A) pay such support in accordance with a plan approved by the court, or, at the option of the State, a plan approved by the State agency administering the State program under this part; or

(B) if the individual is subject to such a plan and is not incapacitated, participate in such work activities (as defined in section 607(d) of this title) as the court, or, at the option of the State, the State agency administering the State program under this part, deems appropriate.

(16) Authority to withhold or suspend licenses.-Procedures under which the State has (and uses in appropriate cases) authority to withhold or suspend, or to restrict the use of driver's licenses, professional and occupational licenses, and recreational and sporting licenses of individuals owing overdue support or failing, after receiving appropriate notice, to comply with subpoenas or warrants relating to paternity or child support proceedings.

(17) Financial institution data matches.-

(A) In general.-Procedures under which the State agency shall enter into agreements with financial institutions doing business in the State-

(i) to develop and operate, in coordination with such financial institutions, and the Federal Parent Locator Service in the case of financial institutions doing business in two or more States, a data match system, using automated data exchanges to the maximum extent feasible, in which each such financial institution is required to provide for each calendar quarter the name, record address, social security number or other taxpayer identification number, and other identifying information for each noncustodial parent who maintains an account at such institution and who owes past-due support, as identified by the State by name and social security number or other taxpayer identification number; and

(ii) in response to a notice of lien or levy, encumber or surrender, as the case may be, assets held by such institution on behalf of any noncustodial parent who is subject to a child support lien pursuant to paragraph (4).

(B) Reasonable fees.-The State agency may pay a reasonable fee to a financial institution for conducting the data match provided for in subparagraph (A)(i), not to exceed the actual costs incurred by such financial institution.

(C) Liability.-A financial institution shall not be liable under any Federal or State law to any person-

(i) for any disclosure of information to the State agency under subparagraph (A)(i);

(ii) for encumbering or surrendering any assets held by such financial institution in response to a notice of lien or levy issued by the State agency as provided for in subparagraph (A)(ii); or

(iii) for any other action taken in good faith to comply with the requirements of subparagraph (A).

(D) Definitions.-For purposes of this paragraph-

(i) Financial institution.-The term "financial institution" has the meaning given to such term by section 669A(d)(1) of this title.

(ii) Account.-The term "account" means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money-market mutual fund account.

(18) Enforcement of orders against paternal or maternal grandparents.-Procedures under which, at the State's option, any child support order enforced under this part with respect to a child of minor parents, if the custodial parent of such child is receiving assistance under the State program under part A of this subchapter, shall be enforceable, jointly and severally, against the parents of the noncustodial parent of such child.

(19) Health care coverage.-Procedures under which-

(A) effective as provided in section 401(c)(3) of the Child Support Performance and Incentive Act of 1998, all child support orders enforced pursuant to this part shall include a provision for medical support for the child to be provided by either or both parents, and shall be enforced, where appropriate, through the use of the National Medical Support Notice promulgated pursuant to section 401(b) of the Child Support Performance and Incentive Act of 1998 (and referred to in section 609(a)(5)(C) of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1169(a)(5)(C)] in connection with group

health plans covered under title I of such Act [29 U.S.C. 1001 et seq.], in section 401(e) of the Child Support Performance and Incentive Act of 1998 in connection with State or local group health plans, and in section 401(f) of such Act in connection with church group health plans);

(B) unless alternative coverage is allowed for in any order of the court (or other entity issuing the child support order), in any case in which a parent is required under the child support order to provide such health care coverage and the employer of such parent is known to the State agency-

(i) the State agency uses the National Medical Support Notice to transfer notice of the provision for the health care coverage of the child to the employer;

(ii) within 20 business days after the date of the National Medical Support Notice, the employer is required to transfer the Notice, excluding the severable employer withholding notice described in section 401(b)(2)(C) of the Child Support Performance and Incentive Act of 1998, to the appropriate plan providing any such health care coverage for which the child is eligible;

(iii) in any case in which the parent is a newly hired employee entered in the State Directory of New Hires pursuant to section 653a(e) of this title, the State agency provides, where appropriate, the National Medical Support Notice, together with an income withholding notice issued pursuant to subsection (b), within two days after the date of the entry of such employee in such Directory; and

(iv) in any case in which the employment of the parent with any employer who has received a National Medical Support Notice is terminated, such employer is required to notify the State agency of such termination; and

(C) any liability of the obligated parent to such plan for employee contributions which are required under such plan for enrollment of the child is effectively subject to appropriate enforcement, unless the obligated parent contests such enforcement based on a mistake of fact.

Notwithstanding section 654(20)(B) of this title, the procedures which are required under paragraphs (3), (4), (6), (7), and (15) need not be used or applied in cases where the State determines (using guidelines which are generally available within the State and which take into account the payment record of the noncustodial parent, the availability of other remedies, and other relevant considerations) that such use or application would not carry out the purposes of this part or would be otherwise inappropriate in the circumstances.

(b) Withholding from income of amounts payable as support

The procedures referred to in subsection (a)(1)(A) of this section (relating to the withholding from income of amounts payable as support) must provide for the following:

(1) In the case of each noncustodial parent against whom a support order is or has been issued or modified in the State, and is being enforced under the State plan, so much of such parent's income must be withheld, in accordance with the succeeding provisions of this subsection, as is necessary to comply with the order and provide for the payment of any fee to the employer which may be required under paragraph (6)(A), up to the maximum amount permitted under section 1673(b) of title 15. If there are arrearages to be collected, amounts withheld to satisfy such arrearages, when added to the amounts withheld to pay current support and provide for the fee, may not exceed the limit permitted under such section 1673(b), but the State need not withhold up to the maximum amount permitted under such section in order to satisfy arrearages.

(2) Such withholding must be provided without the necessity of any application therefor in the case of a child (whether or not eligible for assistance under a State program funded under part A of this subchapter) with respect to whom services are already being provided under the State plan under this part, and must be provided in accordance with this subsection on the basis of an application for services under the State plan in the case of any other child in whose behalf a support order has been issued or modified in the State. In either case such withholding must occur without the need for any amendment to the support order involved or for any further action (other than those actions required under this part) by the court or other entity which issued such order.

(3)(A) The income of a noncustodial parent shall be subject to such withholding, regardless of whether support payments by such parent are in arrears, in the case of a support order being enforced under this part that is issued or modified on or after the first day of the 25th month beginning after October 13, 1988, on the effective date of the order, except that such income shall not be subject to such withholding under this subparagraph in any case where (i) one of the parties demonstrates, and the court (or administrative process) finds, that there is good cause not to require immediate income withholding, or (ii) a written agreement is reached between both parties which provides for an alternative arrangement.

(B) The income of a noncustodial parent shall become subject to such withholding, in the case of income not subject to withholding under subparagraph (A), on the date on which the payments which the noncustodial parent has failed to make under a support order are at least equal to the support payable for one month or, if earlier, and without regard to whether there is an arrearage, the earliest of-

(i) the date as of which the noncustodial parent requests that such withholding begin,

- (ii) the date as of which the custodial parent requests that such withholding begin, if the State determines, in accordance with such procedures and standards as it may establish, that the request should be approved, or
- (iii) such earlier date as the State may select.

(4)(A) Such withholding must be carried out in full compliance with all procedural due process requirements of the State, and the State must send notice to each noncustodial parent to whom paragraph (1) applies-

- (i) that the withholding has commenced; and
- (ii) of the procedures to follow if the noncustodial parent desires to contest such withholding on the grounds that the withholding or the amount withheld is improper due to a mistake of fact.

(B) The notice under subparagraph (A) of this paragraph shall include the information provided to the employer under paragraph (6)(A).

(5) Such withholding must be administered by the State through the State disbursement unit established pursuant to section 654b of this title, in accordance with the requirements of section 654b of this title.

(6)(A)(i) The employer of any noncustodial parent to whom paragraph (1) applies, upon being given notice as described in clause (ii), must be required to withhold from such noncustodial parent's income the amount specified by such notice (which may include a fee, established by the State, to be paid to the employer unless waived by such employer) and pay such amount (after deducting and retaining any portion thereof which represents the fee so established) to the State disbursement unit within 7 business days after the date the amount would (but for this subsection) have been paid or credited to the employee, for distribution in accordance with this part. The employer shall withhold funds as directed in the notice, except that when an employer receives an income withholding order issued by another State, the employer shall apply the income withholding law of the State of the obligor's principal place of employment in determining-

- (I) the employer's fee for processing an income withholding order;
- (II) the maximum amount permitted to be withheld from the obligor's income;
- (III) the time periods within which the employer must implement the income withholding order and forward the child support payment;
- (IV) the priorities for withholding and allocating income withheld for multiple child support obligees; and
- (V) any withholding terms or conditions not specified in the order.

An employer who complies with an income withholding notice that is regular on its face shall not be subject to civil liability to any individual or agency for conduct in compliance with the notice.

(ii) The notice given to the employer shall be in a standard format prescribed by the Secretary, and contain only such information as may be necessary for the employer to comply with the withholding order.

(iii) As used in this subparagraph, the term "business day" means a day on which State offices are open for regular business.

(B) Methods must be established by the State to simplify the withholding process for employers to the greatest extent possible, including permitting any employer to combine all withheld amounts into a single payment to each appropriate agency or entity (with the portion thereof which is attributable to each individual employee being separately designated).

(C) The employer must be held liable to the State for any amount which such employer fails to withhold from income due an employee following receipt by such employer of proper notice under subparagraph (A), but such employer shall not be required to vary the normal pay and disbursement cycles in order to comply with this paragraph.

(D) Provision must be made for the imposition of a fine against any employer who-

- (i) discharges from employment, refuses to employ, or takes disciplinary action against any noncustodial parent subject to income withholding required by this subsection because of the existence of such withholding and the obligations or additional obligations which it imposes upon the employer; or
- (ii) fails to withhold support from income or to pay such amounts to the State disbursement unit in accordance with this subsection.

(7) Support collection under this subsection must be given priority over any other legal process under State law against the same income.

(8) For purposes of subsection (a) of this section and this subsection, the term "income" means any periodic form of payment due to an individual, regardless of source, including wages, salaries, commissions, bonuses, worker's compensation, disability, payments pursuant to a pension or retirement program, and interest.

(9) The State must extend its withholding system under this subsection so that such system will include

withholding from income derived within such State in cases where the applicable support orders were issued in other States, in order to assure that child support owed by noncustodial parents in such State or any other State will be collected without regard to the residence of the child for whom the support is payable or of such child's custodial parent.

(10) Provision must be made for terminating withholding.

(11) Procedures under which the agency administering the State plan approved under this part may execute a withholding order without advance notice to the obligor, including issuing the withholding order through electronic means.

(c) Expedited procedures

The procedures specified in this subsection are the following:

(1) Administrative action by State agency

Procedures which give the State agency the authority to take the following actions relating to establishment of paternity or to establishment, modification, or enforcement of support orders, without the necessity of obtaining an order from any other judicial or administrative tribunal, and to recognize and enforce the authority of State agencies of other States to take the following actions:

(A) Genetic testing

To order genetic testing for the purpose of paternity establishment as provided in subsection (a)(5) of this section.

(B) Financial or other information

To subpoena any financial or other information needed to establish, modify, or enforce a support order, and to impose penalties for failure to respond to such a subpoena.

(C) Response to State agency request

To require all entities in the State (including for-profit, nonprofit, and governmental employers) to provide promptly, in response to a request by the State agency of that or any other State administering a program under this part, information on the employment, compensation, and benefits of any individual employed by such entity as an employee or contractor, and to sanction failure to respond to any such request.

(D) Access to information contained in certain records

To obtain access, subject to safeguards on privacy and information security, and subject to the nonliability of entities that afford such access under this subparagraph, to information contained in the following records (including automated access, in the case of records maintained in automated data bases):

(i) Records of other State and local government agencies, including-

- (I) vital statistics (including records of marriage, birth, and divorce);**
- (II) State and local tax and revenue records (including information on residence address, employer, income and assets);**
- (III) records concerning real and titled personal property;**
- (IV) records of occupational and professional licenses, and records concerning the ownership and control of corporations, partnerships, and other business entities;**
- (V) employment security records;**
- (VI) records of agencies administering public assistance programs;**
- (VII) records of the motor vehicle department; and**
- (VIII) corrections records.**

(ii) Certain records held by private entities with respect to individuals who owe or are owed support (or against or with respect to whom a support obligation is sought), consisting of-

- (I) the names and addresses of such individuals and the names and addresses of the employers of such individuals, as appearing in customer records of public utilities and cable television companies, pursuant to an administrative subpoena authorized by subparagraph (B); and**
- (II) information (including information on assets and liabilities) on such individuals held by financial institutions.**

(E) Change in payee

In cases in which support is subject to an assignment in order to comply with a requirement imposed pursuant to part A of this subchapter, part E of this subchapter, or section 1396k of this title, or to a requirement to pay through the State disbursement unit established pursuant to section 654b of this title, upon providing notice to obligor and obligee, to direct the obligor or other payor to change the payee to the appropriate government entity.

(F) Income withholding

To order income withholding in accordance with subsections (a)(1)(A) and (b) of this section.

(G) Securing assets

In cases in which there is a support arrearage, to secure assets to satisfy any current support obligation and the arrearage by-

(i) intercepting or seizing periodic or lump-sum payments from-

(I) a State or local agency, including unemployment compensation, workers' compensation, and other benefits; and

(II) judgments, settlements, and lotteries;

(ii) attaching and seizing assets of the obligor held in financial institutions;

(iii) attaching public and private retirement funds; and

(iv) imposing liens in accordance with subsection (a)(4) of this section and, in appropriate cases, to force sale of property and distribution of proceeds.

(H) Increase monthly payments

For the purpose of securing overdue support, to increase the amount of monthly support payments to include amounts for arrearages, subject to such conditions or limitations as the State may provide.

Such procedures shall be subject to due process safeguards, including (as appropriate) requirements for notice, opportunity to contest the action, and opportunity for an appeal on the record to an independent administrative or judicial tribunal.

(2) Substantive and procedural rules

The expedited procedures required under subsection (a)(2) of this section shall include the following rules and authority, applicable with respect to all proceedings to establish paternity or to establish, modify, or enforce support orders:

(A) Locator information; presumptions concerning notice

Procedures under which-

(i) each party to any paternity or child support proceeding is required (subject to privacy safeguards) to file with the State case registry upon entry of an order, and to update as appropriate, information on location and identity of the party, including social security number, residential and mailing addresses, telephone number, driver's license number, and name, address, and telephone number of employer; and

(ii) in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of such a party, the court or administrative agency of competent jurisdiction shall deem State due process requirements for notice and service of process to be met with respect to the party, upon delivery of written notice to the most recent residential or employer address filed with the State case registry pursuant to clause (i).

(B) Statewide jurisdiction

Procedures under which-

(i) the State agency and any administrative or judicial tribunal with authority to hear child support and paternity cases exerts statewide jurisdiction over the parties; and

(ii) in a State in which orders are issued by courts or administrative tribunals, a case may be transferred between local jurisdictions in the State without need for any additional filing by the petitioner, or service of process upon the respondent, to retain jurisdiction over the parties.

(3) Coordination with ERISA

Notwithstanding subsection (d) of section 514 of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1144(d)] (relating to effect on other laws), nothing in this subsection shall be construed to alter, amend, modify, invalidate, impair, or supersede subsections (a), (b), and (c) of such section 514 [29 U.S.C. 1144(a)-(c)] as it applies with respect to any procedure referred to in paragraph (1) and any expedited procedure referred to in paragraph (2), except to the extent that such procedure would be consistent with the requirements of section 206(d)(3) of such Act [29 U.S.C. 1056(d)(3)] (relating to qualified domestic relations orders) or the requirements of section 609(a) of such Act [29 U.S.C. 1169(a)] (relating to qualified medical child support orders) if the reference in such section 206(d)(3) to a domestic relations order and the reference in such section 609(a) to a medical child support order were a reference to a support order referred to in paragraphs (1) and (2) relating to the same matters, respectively.

(d) Exemption of States

If a State demonstrates to the satisfaction of the Secretary, through the presentation to the Secretary of

such data pertaining to caseloads, processing times, administrative costs, and average support collections, and such other data or estimates as the Secretary may specify, that the enactment of any law or the use of any procedure or procedures required by or pursuant to this section will not increase the effectiveness and efficiency of the State child support enforcement program, the Secretary may exempt the State, subject to the Secretary's continuing review and to termination of the exemption should circumstances change, from the requirement to enact the law or use the procedure or procedures involved.

(e) "Overdue support" defined

For purposes of this section, the term "overdue support" means the amount of a delinquency pursuant to an obligation determined under a court order, or an order of an administrative process established under State law, for support and maintenance of a minor child which is owed to or on behalf of such child, or for support and maintenance of the noncustodial parent's spouse (or former spouse) with whom the child is living if and to the extent that spousal support (with respect to such spouse or former spouse) would be included for purposes of section 654(4) of this title. At the option of the State, overdue support may include amounts which otherwise meet the definition in the first sentence of this subsection but which are owed to or on behalf of a child who is not a minor child. The option to include support owed to children who are not minors shall apply independently to each procedure specified under this section.

(f) Uniform Interstate Family Support Act

In order to satisfy section 654(20)(A) of this title, on and after January 1, 1998, each State must have in effect the Uniform Interstate Family Support Act, as approved by the American Bar Association on February 9, 1993, and as in effect on August 22, 1996, including any amendments officially adopted as of such date by the National Conference of Commissioners on Uniform State Laws.

(g) Laws voiding fraudulent transfers

In order to satisfy section 654(20)(A) of this title, each State must have in effect-

- (1)(A) the Uniform Fraudulent Conveyance Act of 1981;
- (B) the Uniform Fraudulent Transfer Act of 1984; or
- (C) another law, specifying indicia of fraud which create a prima facie case that a debtor transferred income or property to avoid payment to a child support creditor, which the Secretary finds affords comparable rights to child support creditors; and
- (2) procedures under which, in any case in which the State knows of a transfer by a child support debtor with respect to which such a prima facie case is established, the State must-
 - (A) seek to void such transfer; or
 - (B) obtain a settlement in the best interests of the child support creditor.

(Aug. 14, 1935, ch. 531, title IV, §466, as added Pub. L. 98-378, §3(b), Aug. 16, 1984, 98 Stat. 1306; amended Pub. L. 99-509, title IX, §9103(a), Oct. 21, 1986, 100 Stat. 1973; Pub. L. 100-485, title I, §§101(a), (b), 103(c), 111(b), (e), Oct. 13, 1988, 102 Stat. 2344-2346, 2349, 2350; Pub. L. 100-647, title VIII, §8105(4), Nov. 10, 1988, 102 Stat. 3797; Pub. L. 103-66, title XIII, §13721(b), Aug. 10, 1993, 107 Stat. 659; Pub. L. 103-432, title II, §212(a), Oct. 31, 1994, 108 Stat. 4460; Pub. L. 104-193, title I, §108(c)(14), (15), title III, §§301(c)(3), (4), 314, 315, 317, 321, 323, 325(a), 331(a), 351, 364, 365, 367-369, 372, 373, 382, 395(d)(1)(H), (2)(D), Aug. 22, 1996, 110 Stat. 2166, 2200, 2212, 2214, 2220-2222, 2224, 2227, 2239, 2249-2251, 2254, 2255, 2257, 2259, 2260; Pub. L. 105-33, title V, §§5532(i)(2), 5536-5539, 5544, 5550(a), 5551, 5556(a), (e), Aug. 5, 1997, 111 Stat. 627, 629-631, 633, 634, 637; Pub. L. 105-200, title IV, §§401(c)(1), 404(a), 406(a), July 16, 1998, 112 Stat. 661, 671; Pub. L. 106-169, title IV, §401(f), (m), (n), Dec. 14, 1999, 113 Stat. 1858, 1859; Pub. L. 109-171, title VII, §§7301(g), 7302(a), 7307(a)(1), (2)(A)(ii), Feb. 8, 2006, 120 Stat. 145, 146; Pub. L. 113-183, title III, §301(f)(1), Sept. 29, 2014, 128 Stat. 1944.)

AMENDMENT OF SUBSECTION (F)

Pub. L. 113-183, title III, §301(f)(1), (3)(A), Sept. 29, 2014, 128 Stat. 1944, 1945, provided that, effective with respect to the grace periods provided to States (see Effective Date of 2014 Amendment note below), subsection (f) of this section is amended as follows:

- (1) by striking "on and after January 1, 1998,";
 - (2) by striking "and as in effect on August 22, 1996,"; and
 - (3) by striking "adopted as of such date" and inserting "adopted as of September 30, 2008".
- See 2014 Amendment note below.

REFERENCES IN TEXT

Sections 401(b) and 401(c)(3) of the Child Support Performance and Incentive Act of 1998, Pub. L. 105-200, referred to in subsec. (a)(19)(A), (B)(ii), are set out as notes under sections 651 and 652 of this title, respectively. Sections 401(e) and 401(f) of the Act, referred to in subsec. (a)(19)(A), are set out in a note under section 1169 of Title 29, Labor.