

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

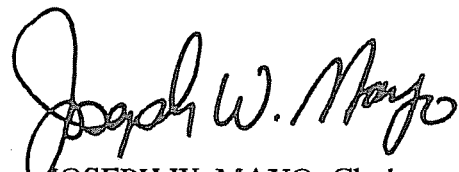
No. 1802

H.P. 1339

House of Representatives, January 27, 1994

An Act to Adopt the Uniform Interstate Family Support Act.

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 26.
Reference to the Committee on Judiciary suggested and ordered printed.


JOSEPH W. MAYO, Clerk

Presented by Representative FARNSWORTH of Hallowell.
Cosponsored by Representatives: CATHCART of Orono, COTE of Auburn, LIPMAN of
Augusta, Senator: CONLEY of Cumberland.

Be it enacted by the People of the State of Maine as follows:

Uniform Interstate Family Support Act

Prefatory Note

I. Background Information

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

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

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

Following receipt of extensive comments at the 1990 Annual Meeting and from numerous groups and individuals, the Drafting Committee recommended, and the Executive Committee of the Conference decided, that final approval of the revised URES A should be delayed until the Conference's 1992 Annual Meeting because that timetable would coincide with the work of the U.S. Commission on Interstate Child Support. Throughout 1991 and 1992, the Drafting Committee continued to work on the Act, in

2 conjunction with numerous knowledgeable Advisors and Observers,
including five persons who also served as members of the U.S.
Commission.

4
6 The Drafting Committee and Executive Committee determined
that the Act should have a new name -- the Uniform Interstate
8 Family Support Act (UIFSA). This new Act is intended to
completely revise and replace URESA and RURESА.

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

14 II. Proposed Changes

16 A. In General

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

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

40 3. RECIPROCITY NOT REQUIRED. Reciprocity of laws between
42 states is no longer required because at present all states have
quite similar laws, and the enacting state should enforce a
44 support obligation irrespective of another state's law.
Nonetheless, consistent with past practice URESА, RURESА and all
46 substantially similar state laws are deemed equivalent to UIFSA
for purposes of interstate actions (Section 101(7), (16))
48 [section 421, subsections 7 and 16]. This means that any of
these acts can be used if different states have different
50 versions in effect, which should help ease the transition to the
new Act.

2 4. LONG-ARM JURISDICTION. The Act contains a broad
4 provision for asserting long-arm jurisdiction to give the
6 tribunals in the home state of the supported family the maximum
8 possible opportunity to secure personal jurisdiction over an
10 absent respondent (Section 201) [section 422], thereby converting
12 what otherwise would be a two-state proceeding into a one-state
14 lawsuit. Where jurisdiction over a nonresident is obtained, the
16 tribunal may obtain evidence, provide for discovery, and elicit
18 testimony through use of the "information route" sections of the
20 Act (Sections 202, 316 and 318) [sections 422, 423-O and 423-Q].

14 B. Establishing a Support Order

16 1. FAMILY SUPPORT. The revision makes clear that the Act
18 may be used only for proceedings involving the support of a child
20 or spouse of the support obligor, and not to enforce other duties
22 such as support of a parent (Section 101(2) and (18)) [section
24 421, subsections 2 and 18]. Under URESA child support and
26 spousal support are treated identically. However, under UIFSA
28 spousal support is modifiable in the interstate context only
30 after such a request is forwarded to the original issuing state
32 from another state (Sections 205 and 206) [sections 422-D and
34 422-E].

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

34 (a) Certain procedures are prescribed for interstate cases
36 even if they are not consistent with local law, e.g., the
38 contents of interstate petitions (Sections 311 and 602) [sections
40 423-J and 426-A]; the nondisclosure of certain sensitive
42 information (Section 312) [section 423-K]; authority to award
44 fees and costs including attorneys fees (Section 313) [section
46 423-L]; elimination of certain testimonial immunities (Section
48 314) [section 423-M]; and limits on the assertion of nonparentage
50 as a defense to support enforcement (Section 315) [section 423-N].

44 (b) Visitation issues cannot be raised in child support
46 proceedings (Section 305(d)) [section 423-D, subsection 4].

48 (c) Special rules for the interstate transmission of
50 evidence and discovery are added to help place the maximum amount
52 of information before the deciding tribunal. These procedures
are available even in one-state cases in which the tribunal
asserts long-arm jurisdiction over a nonresident (Sections 202,
316, and 318) [sections 422-A, 423-O and 423-Q].

2 (d) The choice of law for the interpretation of registered
orders is that of the state issuing the underlying support
4 order. If there are different statutes of limitation for
enforcement, however, the longer one applies (Section 604)
6 [section 426-C].

8 3. ONE-ORDER SYSTEM. Under the present URESA, the majority
of support proceedings are de novo. Even when an existing order
10 of one state is "registered" in a second state, the registering
state often asserts the right to modify the registered order.
12 This means that more than one valid support order can be in
effect in more than one state. Under UIFSA, the principle of
14 continuing, exclusive jurisdiction is introduced into the Act for
the first time; this aims, so far as possible, to allow only one
16 support order to be effective at any one time. This principle is
carried out in Sections 204 [section 422-C] (rules for resolving
18 actions pending in two or more states); 205 and 206 [sections
422-D and 422-E] (rules for determining which tribunal has
20 continuing, exclusive jurisdiction over an order); 207 [section
422-F] (reconciliation with orders issued before the effective
22 date of the Act); and 208 [section 422-G] (multiple orders for
two or more families supported by the same obligor).

24 4. EFFICIENCY. A number of improvements are made to the
former Act to streamline interstate proceedings:
26

28 (a) Proceedings may be initiated by or referred to
administrative agencies rather than to courts in those states
30 that use those agencies to establish support orders (Section
101(22)) [section 421, subsection 22].
32

34 (b) Initiation of an interstate case in the initiating
state is expressly made ministerial rather than a matter of court
adjudication or review. Further, a party in the initiating state
36 may file an action directly in the responding state (Section
301(c)) [section 423, subsection 3].
38

40 (c) Forms which are federally mandated for use in certain
interstate cases must be used in all interstate cases for
transmission of information from the initiating to the responding
42 state (Section 311(b)) [section 423-J, subsection 2], and the
information in those forms is declared to be admissible evidence
44 (Section 316(b)) [section 423-O, subsection 2].

46 (d) Authority is provided for the transmission of
information and documents through electronic and other modern
48 means of communication (Section 316(e)) [section 423-O,
subsection 5].
50

52 (e) A tribunal may permit an out-of-state party or witness
to be deposed or to testify by telephone conference (Section
316(f)) [section 423-O, subsection 6].
54

2 (f) Tribunals are required to cooperate in the discovery
process for use in a tribunal in another state (Section 318)
[section 423-Q].

4
6 (g) A tribunal and a support enforcement agency providing
services to a supported family must keep the parties informed
about all important developments in a case (Sections 305 and 307)
8 [sections 423-D and 423-E].

10 (h) A registered support order is confirmed and immediately
enforceable unless the respondent files a written objection
12 within 20 days after service and sustains that objection
(Sections 603 and 607) [sections 426-B and 426-C].

14
16 5. PRIVATE ATTORNEYS. In support actions the Act
explicitly authorizes parties to retain private legal counsel
(Section 309) [section 423-H], as well as to use the services of
18 state support enforcement agency (Section 307(a)) [section 423-F,
subsection 1]. It expressly takes no position on whether the
20 support enforcement agency assisting a supported family
establishes an attorney-client relationship with the applicant
22 (Section 307(c)) [section 423-F, subsection 3].

24 6. INTERSTATE PARENTAGE. UIFSA clearly authorizes
establishment of parentage in an interstate proceeding, even if
26 not coupled with a proceeding to establish support (Section 701)
[section 427].

30 C. Enforcing a Support Order

32 1. DIRECT ENFORCEMENT. The Act provides two direct
enforcement procedures that do not require assistance from a
34 tribunal. First, the support order may be mailed directly to an
obligor's employer in another state (Section 501) [section 425],
36 which triggers wage withholding by that employer without the
necessity of a hearing unless the employee objects. Second, the
38 Act provides for direct administrative enforcement by the support
enforcement agency of the obligor's state (Section 502) [section
40 425-A].

42 2. REGISTRATION. The registration process of the Act is
modeled after that procedure originated in RURESA, but is far
44 more comprehensive. All judicial enforcement activity must begin
with the registration of the existing support order in the
46 responding state (Sections 601 through 604) [sections 426 to
426-C]. However, the registered order continues to be the order
48 of the issuing state, and the role of the responding state is
limited to enforcing that order except in the very limited
50 circumstances where modification is permitted (Sections 605
through 608) [sections 426-D to 426-G].

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D. Modifying a Support Order

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

2. MODIFICATION LIMITED. Under RURESA most courts have held that a responding state can modify a support order for which enforcement has been sought. Except under narrowly defined fact circumstances, under the new Act the only tribunal that can modify a support order is the one having continuing, exclusive jurisdiction over the order. If the parties no longer reside in the issuing state, a tribunal with personal jurisdiction over both parties or with power given by agreement of the parties, has jurisdiction to modify (Sections 205, 206, 603(c), 609 through 612) [sections 422-D and 422-E, section 426-B, subsection 3 and sections 426-H to 426-K].

E. Parentage

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

Sec. 1. 19 MRSA c. 7, sub-c. II, as amended, is repealed.

Sec. 2. 19 MRSA c. 7, sub-c. II-A is enacted to read:

SUBCHAPTER II-A

UNIFORM INTERSTATE FAMILY SUPPORT ACT

Article 1

General Provisions

§421. Definitions

As used in this Act, unless the context otherwise indicates, the following terms have the following meanings.

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

6 **2. Child support order.** "Child support order" means a
7 support order for a child, including a child who has attained the
8 age of majority under the law of the issuing state.

10 **3. Duty of support.** "Duty of support" means an obligation
11 imposed or imposable by law to provide support for a child,
12 spouse or former spouse, including an unsatisfied obligation to
13 provide support.

14 **4. Home state.** "Home state" means the state in which a
15 child lived with a parent or a person acting as parent for at
16 least 6 consecutive months immediately preceding the time of
17 filing of a petition or comparable pleading for support and, if a
18 child is less than 6 months old, the state in which the child
19 lived from birth with a parent or a person acting as parent. A
20 period of temporary absence of a parent or a person acting as
21 parent is counted as part of the 6-month or other period.

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

28 **6. Income-withholding order.** "Income-withholding order"
29 means an order or other legal process directed to an obligor's
30 employer, as defined by chapter 14-B, to withhold support from
31 the income of the obligor.

32 **7. Initiating state.** "Initiating state" means a state in
33 which a proceeding under this Act or a law substantially similar
34 to this Act, the Uniform Reciprocal Enforcement of Support Act or
35 the Revised Uniform Reciprocal Enforcement of Support Act is
36 filed for forwarding to a responding state.

38 **8. Initiating tribunal.** "Initiating tribunal" means the
39 authorized tribunal in an initiating state.

42 **9. Issuing state.** "Issuing state" means the state in which
43 a tribunal issues a support order or renders a judgment
44 determining parentage.

46 **10. Issuing tribunal.** "Issuing tribunal" means the
47 tribunal that issues a support order or renders a judgment
48 determining parentage.

50 **11. Law.** "Law" includes decisional and statutory law and
rules and regulations having the force of law.

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12. Obligee. "Obligee" means:

A. An individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;

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

C. An individual seeking a judgment determining parentage of the individual's child.

13. Obligor. "Obligor" means an individual or the estate of a decedent:

A. Who owes or is alleged to owe a duty of support;

B. Who is alleged but has not been adjudicated to be a parent of a child; or

C. Who is liable under a support order.

14. Register. "Register" means to file a support order or judgment determining parentage in the registry of foreign support orders.

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

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

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

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

19. State. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes an Indian tribe and includes a foreign jurisdiction that has established procedures

2 for issuance and enforcement of support orders that are
3 substantially similar to the procedures under this Act.

4 20. Support enforcement agency. "Support enforcement
5 agency" means a public official or agency authorized to seek:

6 A. Enforcement of support orders or laws relating to the
7 duty of support;

8 B. Establishment or modification of child support;

9 C. Determination of parentage; or

10 D. The location of obligors or their assets.

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

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

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Comment

Several additional terms are defined in this section as compared to the parallel RURESA § 2, which has fourteen entries. Many crucial definitions continue to be left to local law. For example, the definitions of "child" and "child support order" provided by subsections (1) and (2) [subsections 1 and 2] refer to "the age of majority" without further elaboration. The exact age at which a child becomes an adult for different purposes is a matter for the law of each state, as is the age at which a parent's duty to furnish child support terminates. Similarly, a wide variety of other terms of art are implicitly left to state law. For example, subsection (21) [subsection 21] refers inter alia to "health care, arrearages, or reimbursement" All of these terms are subject to individualized definitions on a state-by-state basis.

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

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

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

28
30 Subsections (7) and (8) [subsections 7 and 8] define
"initiating state" and "initiating tribunal" similarly to RURESA
§ 2(d). It is important to note, however, that this Act permits
32 the direct filing of an interstate action in the responding state
without an initial filing in an initiating tribunal. Thus, a
34 petitioner in one state could seek to establish a support order
in a second state by either filing in the second state's tribunal
36 or seeking the assistance of the support enforcement agency in
the second state.

38
40 The term "obligee" in subsection (12) [subsection 12] is
defined in a broad manner similar to RURESA § 2(f), which is
42 consistent with common usage. In instances of spousal support,
the person owed the duty of support and the person receiving the
44 payments are almost always the same. Use of the term is more
complicated in the context of a child support order. The child
46 is the person to whom the duty of support is owed and therefore
can be viewed as the ultimate obligee. However, "obligee"
usually refers to the individual receiving the payments. While
48 this is most commonly the custodial parent or other legal
custodian, the "obligee" may be a support enforcement agency
50 which has been assigned the right to receive support payments in

2 order to recoup AFDC (Aid to Families with Dependent Children, 42
U.S.C. § 601 et seq.). Even in the absence of such an
4 reimbursement for general assistance provided to a spouse, a
former spouse, or a child of an obligor. The Act also uses
6 "obligee" to identify an individual who is asserting a claim for
support, not just for a person whose right to support is
8 unquestioned, presumed, or has been established in a legal
action. Subsection (13) [subsection 13] provides the correlative
10 definition of an "obligor," which includes an individual who is
alleged to owe a duty of support as well as a person whose
12 obligation has previously been determined.

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

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

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

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

2 Throughout the Act the term refers to a tribunal of the
3 enacting state unless expressly noted otherwise. To avoid
4 confusion, however, when actions of tribunals of the enacting
5 state and another state are contrasted in the same section or
6 subsection, the phrases "tribunal of this State" and "tribunal of
7 another state" are used for the sake of clarity.

8
9 **§421-A. Tribunals of this State**

10 The District Court, the Superior Court and the Department of
11 Human Services are the tribunals of this State.

12
13 **Comment**

14
15 The enacting state must identify the courts, administrative
16 agencies, or the combination of those entities, which constitute
17 the tribunal authorized to deal with family support. In a
18 particular state there may be several different such entities
19 authorized to determine family support matters. It should be
20 emphasized that this provision is not designed to address
21 questions of venue, which are left to otherwise applicable state
22 law.
23

24
25 **§421-B. Remedies cumulative**

26 Remedies provided by this Act are cumulative and do not
27 affect the availability of remedies under other law.

28
29 **Comment**

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31 The existence of procedures for interstate establishment,
32 enforcement, or modification of support or a determination of
33 parentage in this Act does not preclude the application of
34 general state law. For example, a petitioner may decide to file
35 an action directly in the state of residence of the respondent
36 under the generally applicable support law, thereby submitting to
37 the personal jurisdiction of that forum, and forego reliance on
38 the Act.
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41 **Article 2**

42 **Jurisdiction**

43 **Subarticle 1**

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Extended Personal Jurisdiction

§422. Bases for jurisdiction over nonresident

In a proceeding to establish, enforce or modify a support order or to determine parentage, a tribunal of this State may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

1. Personal service. The individual is personally served with notice within this State;

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

3. Resided with child. The individual resided with the child in this State;

4. Resided and provided expenses or support. The individual resided in this State and provided prenatal expenses or support for the child;

5. Child resides. The child resides in this State as a result of the acts or directives of the individual;

6. Intercourse. The individual engaged in sexual intercourse in this State and the child may have been conceived by that act of intercourse; or

7. Any other basis. There is any other basis consistent with the Constitution of Maine and the United States Constitution for the exercise of personal jurisdiction.

Comment

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

2 long-arm statute to obtain personal jurisdiction over the
3 respondent; or (2) initiate a two-state action under the
4 succeeding provisions of UIFSA seeking to establish a support
5 order in the respondent's state of residence.

6 Although not expressly stated, the long-arm statute provided
7 by this section may be applied to spousal support as well as to
8 child support. However, almost all of the specific provisions
9 relate to child support orders or determinations of parentage.
10 Only subsections (1), (2), and (8) [subsections 1, 2 and 7] are
11 applicable to an action for spousal support asserting long-arm
12 jurisdiction over a nonresident. The first two subsections are
13 wholly noncontroversial insofar as an assertion of personal
14 jurisdiction is concerned. This accords with the fact that very
15 few states have chosen to enact specific domestic relations
16 long-arm statutes and that the focus of UIFSA is primarily on
17 child support. Moreover, assertion of personal jurisdiction
18 under subsection (1), (2), or (8) [subsections 1, 2 or 7] will
19 doubtless yield jurisdiction over all matters to be decided
20 between the spouses, including division of property on divorce.
21 Thus, the most obvious basis for asserting long-arm jurisdiction
22 over spousal support, *i.e.*, "last matrimonial domicile," is not
23 included in Section 201 [section 422] to avoid the potential
24 problem of another instance of bifurcated jurisdiction. That is,
25 a situation in which a tribunal could order a nonresident to pay
26 spousal support, while not being authorized to personally bind
27 that nonresident to a division of property on divorce.

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

38 Subsection (1) [subsection 1] codifies the holding of
39 **Burnham v. Superior Court**, 495 U.S. 604 (1990), which reaffirms
40 the constitutional validity of asserting personal jurisdiction
41 based on personal service within a state. Subsection (2)
42 [subsection 2] expresses the principle that a nonresident party
43 concedes personal jurisdiction by seeking affirmative relief or
44 by submitting to the jurisdiction by answering or entering an
45 appearance. However, the power to assert jurisdiction over
46 support issues under the Act does not extend the tribunal's
47 jurisdiction to other matters. Subsections (1) through (8)
48 [subsections 1 to 7] are derived from a variety of sources,
49 including the Uniform Parentage Act § 8, Texas Family Code
50 § 11.051 (Vernon Supp. 1992), and New York Family Court Act

2 § 154. Subsection (7) is bracketed because not all states
maintain putative father registries. [Maine does not maintain a
4 putative father registry, so subsection 7 is deleted.] The
factual situations catalogued in these subsections are
6 appropriate and constitutionally acceptable grounds upon which to
exercise personal jurisdiction over an individual.

8 Subsection (8) [subsection 7] tracks the broad, catch-all
provisions found in many state statutes, including California,
10 Civ. P. Code § 410.10 (1973); New York, *supra*; and Texas, *supra*.
It should be noted, however, that this provision, standing alone,
12 was found to be inadequate to sustain a child support order under
the facts presented in *Kulko v. Superior Court of California for*
14 *San Francisco*, 436 U.S. 84 (1978).

16 **§422-A. Procedure when exercising jurisdiction over nonresident**

18 A tribunal of this State exercising personal jurisdiction
20 over a nonresident under section 422 may apply section 423-O to
22 receive evidence from another state and section 423-Q to obtain
24 discovery through a tribunal of another state. In all other
26 respects, articles 3 to 7 do not apply and the tribunal shall
28 apply the procedural and substantive law of this State, including
30 the rules on choice of law other than those established by this
32 Act.

34 **Comment**

36 Assertion of long-arm jurisdiction over a nonresident
38 essentially results in a one-state proceeding, notwithstanding
the fact that the parties reside in different states. With two
40 exceptions, the provisions of UIFSA are not applicable in these
proceedings. The first exception allows the tribunal to apply
42 the special rules of evidence and procedure of Section 316
[section 423-O] in order to facilitate decision-making when one
44 party resides in another state, even though that party is subject
to the personal jurisdiction of the tribunal. In other words,
46 the one-state case may utilize two-state procedures in the
interests of economy, efficiency, and fair play. The same
48 considerations account for the second exception; the two-state
discovery procedures of Section 318 [section 423-Q] are made
applicable to a one-state proceeding when a foreign tribunal can
assist in that process. In all other situations, the substantive
and procedural law of the state applies. However, to facilitate
interstate exchange of information and to enable the nonresident
to participate as fully as possible in the proceedings without
the necessity of personally appearing in the forum state, this

2 section expressly incorporates the special UIFSA rules on
evidence and assistance with discovery procedures to long-arm
4 cases.

6 **Subarticle 2**

8 **Proceedings Involving 2 or More States**

10 **§422-B. Initiating and responding tribunal of this State**

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

18 **Comment**

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

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

34 **§422-C. Simultaneous proceedings in another state**

36 **1. Exercise of jurisdiction when filed in another state. A**
38 **tribunal of this State may exercise jurisdiction to establish a**
support order when the petition or comparable pleading is filed
40 **after a petition or comparable pleading is filed in another state**
only if:

42 **A. The petition or comparable pleading in this State is**
44 **filed before the expiration of the time allowed in the other**
state for filing a responsive pleading challenging the
46 **exercise of jurisdiction by the other state;**

48 **B. The contesting party timely challenges the exercise of**
50 **jurisdiction in the other state; and**

2 this State has continuing, exclusive jurisdiction over a child
3 support order:

4 A. As long as this State remains the residence of the
5 obligor, the individual obligee or the child for whose
6 benefit the support order is issued; or

8 B. Until each individual party has filed written consent
9 with the tribunal of this State for a tribunal of another
10 state to modify the order and assume continuing, exclusive
11 jurisdiction.

12
13 2. May not exercise continuing, exclusive jurisdiction. A
14 tribunal of this State issuing a child support order consistent
15 with the law of this State may not exercise its continuing
16 jurisdiction to modify the order if the order has been modified
17 by a tribunal of another state pursuant to a law substantially
18 similar to this Act.

20 3. Modification by another state's tribunal. If a child
21 support order of this State is modified by a tribunal of another
22 state pursuant to a law substantially similar to this Act, a
23 tribunal of this State loses its continuing, exclusive
24 jurisdiction with regard to prospective enforcement of the order
25 issued in this State, and may only:

26
27 A. Enforce the order that was modified as to amounts
28 accruing before the modification;

30 B. Enforce nonmodifiable aspects of that order; and

32 C. Provide other appropriate relief for violations of that
33 order that occurred before the effective date of the
34 modification.

36 4. Recognition of jurisdiction of another state's
37 tribunal. A tribunal of this State shall recognize the
38 continuing, exclusive jurisdiction of a tribunal of another state
39 that has issued a child support order pursuant to a law
40 substantially similar to this Act.

42 5. Temporary support order. A temporary support order
43 issued ex parte or pending resolution of a jurisdictional
44 conflict does not create continuing, exclusive jurisdiction in
45 the issuing tribunal.

46
47 6. Jurisdiction over spousal support order. A tribunal of
48 this State issuing a support order consistent with the law of
49 this State has continuing, exclusive jurisdiction over a spousal
50 support order throughout the existence of the support

2 obligation. A tribunal of this State may not modify a spousal
4 support order issued by a tribunal of another state having
6 continuing, exclusive jurisdiction over that order under the law
8 of that state.

10 **Comment**

12 This section is perhaps the most crucial provision in
14 UIFSA. It establishes the principle that the issuing tribunal
16 retains continuing, exclusive jurisdiction over the support order
18 except in very narrowly defined circumstances. If all parties
20 and the child reside elsewhere, the issuing state loses its
22 continuing, exclusive jurisdiction -- which in practical terms
24 means the issuing tribunal loses its authority to modify its
26 order. The issuing state no longer has a nexus with the parties
28 or child and, furthermore, the issuing tribunal has no current
30 information about the circumstances of anyone involved. Note,
however, that the one-order of the issuing tribunal remains valid
and enforceable. That order is in effect not only in the issuing
state and those states in which the order has been registered,
but also may be enforced in additional states in which the
one-order is registered for enforcement after the issuing state
loses its power to modify the original order, see Sections 601
through 604 [sections 426 to 426-C] (Registration and Enforcement
of Support Order), infra. The one-order remains in effect until
it is properly modified in accordance with the narrow terms of
the Act, see Sections 609 through 612 [sections 426-H to 426-K]
(Registration and Modification of Child Support Order), infra.

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

46 With regard to spousal support, the issuing tribunal retains
48 continuing, exclusive jurisdiction over an order of spousal
50 support throughout the entire existence of the support
obligation. The prohibition against a modification of an
existing spousal support order of another state imposed by

2 Sections 205 and 206 [sections 422-D and 422-E] marks a radical
3 departure from RURESA, which treats spousal and child support
4 orders identically. Under UIFSA, modification of spousal support
5 is permitted in the interstate context only if an action is
6 initiated outside of, and modified by the original issuing
7 state. While UIFSA revises RURESA in this regard, in fact this
8 will have a minimal effect on actual practice. Interstate
9 modification of spousal support has been relatively rare under
10 RURESA. Moreover, the prohibition of modification of spousal
11 support is consistent with the basic principle that a tribunal
12 should apply local law if at all possible to insure efficient
13 handling of cases and to minimize choice of law problems.
14 Avoiding conflict of law problems is almost impossible if spousal
15 support orders are subject to modification in a second state.
16 For example, there is wide variation among state laws on the
17 effect on a spousal support order following the obligee's
18 remarriage or nonmarital cohabitation with another person.

19
20 The distinction between spousal and child support is further
21 justified because the standards for modification of child support
22 and spousal support are so different. In most jurisdictions a
23 dramatic improvement in the obligor's economic circumstances will
24 have little or no relevance in an action seeking an upward
25 modification of spousal support, while a similar change in an
26 obligor's situation typically is a primary basis for an increase
27 in child support. This disparity is founded on a policy choice
28 that post-divorce success should benefit the obligor's child, but
29 not an ex-spouse.

30
31 **§422-E. Enforcement and modification of support order by**
32 **tribunal having continuing jurisdiction**

33
34 **1. Initiating tribunal to enforce or modify.** A tribunal of
35 **this State may serve as an initiating tribunal to request a**
36 **tribunal of another state to enforce or modify a support order**
37 **issued in that state.**

38
39 **2. Responding tribunal to enforce or modify.** A tribunal of
40 **this State having continuing, exclusive jurisdiction over a**
41 **support order may act as a responding tribunal to enforce or**
42 **modify the order. If a party subject to the continuing,**
43 **exclusive jurisdiction of the tribunal no longer resides in the**
44 **issuing state, in subsequent proceedings the tribunal may apply**
45 **section 423-O to receive evidence from another state and section**
46 **423-O to obtain discovery through a tribunal of another state.**

2 tribunals would have continuing, exclusive jurisdiction
3 under this Act, an order issued by a tribunal in the current
4 home state of the child must be recognized, but if an order
5 has not been issued in the current home state of the child,
6 the order most recently issued must be recognized.

7 D. If 2 or more tribunals have issued child support orders
8 for the same obligor and child, and none of the tribunals
9 would have continuing, exclusive jurisdiction under this
10 Act, the tribunal of this State may issue a child support
11 order, which must be recognized.

12 2. Tribunal having continuing, exclusive jurisdiction. The
13 tribunal that has issued an order recognized under subsection 1
14 is the tribunal having continuing, exclusive jurisdiction.

15
16
17 **Comment**

18
19 This section establishes a priority scheme for recognition
20 and enforcement of existing multiple orders regarding the same
21 obligor, obligee or obligees, and the same child. Even assuming
22 universal enactment of UIFSA, many years will pass before its
23 one-order system will be completely in place. Part C [Subarticle
24 3] is designed to span the gulf between the one-order system and
25 the multiple order system in place under RURESA. If only one
26 order has been issued, it is to be treated as if it had been
27 issued under UIFSA if it was issued under a statute which is
28 consistent with the principles of UIFSA. But, multiple orders
29 issued under RURESA number in the tens of thousands; it can be
30 reasonably anticipated that those orders, covering the same
31 parties and child, will continue in effect far into the future.

32
33 Assuming multiple orders exist, none of which can be
34 distinguished as being in conflict with the principles of UIFSA,
35 an order issued by a tribunal of the child's home state is given
36 the higher priority. If more than one of these orders exists,
37 priority is given to the order most recently issued. If none of
38 the priorities apply, the forum tribunal is directed to issue a
39 new order. Note, however, that multiple orders issued by
40 different states may be entitled to full faith and credit. While
41 this section cannot and does not attempt to interfere with that
42 constitutional directive with regard to accrued arrearages, it
43 may and does establish a system for prospective enforcement of
44 competing orders.

45
46
47 §422-G. Multiple child support orders for 2 or more obligees
48

2 In responding to multiple registrations or petitions for
3 enforcement of 2 or more child support orders in effect at the
4 same time with regard to the same obligor and different
5 individual obligees, at least one of which was issued by a
6 tribunal of another state, a tribunal of this State shall enforce
7 those orders in the same manner as if the multiple orders had
8 been issued by a tribunal of this State.

10 **Comment**

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

26 **§422-H. Credit for payments**

28 Amounts collected and credited for a particular period
29 pursuant to a support order issued by a tribunal of another state
30 must be credited against the amounts accruing or accrued for the
31 same period under a support order issued by the tribunal of this
32 State.

36 **Comment**

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

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Article 3

Civil Provisions of General Application

§423. Proceedings under this Act

1. Application of article. Except as otherwise provided in this Act, this article applies to all proceedings under this Act.

2. Proceedings under Act. This Act provides for the following proceedings:

A. Establishment of an order for spousal support or child support pursuant to article 4;

B. Enforcement of a support order and income-withholding order of another state without registration pursuant to article 5;

C. Registration of an order for spousal support or child support of another state for enforcement pursuant to article 6;

D. Modification of an order for child support or spousal support issued by a tribunal of this State pursuant to article 2, subarticle 2;

E. Registration of an order for child support of another state for modification pursuant to article 6;

F. Determination of parentage pursuant to article 7; and

G. Assertion of jurisdiction over nonresidents pursuant to article 2, subarticle 1.

3. Commencement of a proceeding. An individual petitioner or a support enforcement agency may commence a proceeding authorized under this Act by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state that has or can obtain personal jurisdiction over the respondent.

Comment

This section is a "road map" of the types of actions authorized by UIFSA. Although such a section may be unusual for

2 a uniform act, it is especially justified in this instance
because the majority of those persons administering the Act are
4 not attorneys and will doubtless find such assistance to be
useful.

6 Subsection (a) [subsection 1] mandates application of the
general provisions of this article to all UIFSA actions.

8
10 Generally, subsection (b) [subsection 2] identifies the fact
that orders for spousal support and child support are to be dealt
with identically under the Act. However, subsection (b)(5)
12 [subsection 2, paragraph E] announces that the modification
provisions are limited to child support orders; the Act does not
14 provide for a second state to modify a spousal support order.

16 Subsection (c) [subsection 3] establishes the basic
two-state procedure contemplated by the Act. The initiating
18 responding procedure is derived from the two-state procedure
under RURESA; the direct filing by either an individual or a
20 support enforcement agency is new to this Act.

22
24 §423-A. Action by minor parent

26 A minor parent, or a guardian or other legal representative
of a minor parent, may maintain a proceeding on behalf of or for
the benefit of the minor's child.

28
30 **Comment**

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

38
40 §423-B. Application of law of this State

42 Except as otherwise provided by this Act, a responding
tribunal of this State:

44
46 1. Procedural and substantive law; powers and remedies.
Shall apply the procedural and substantive law, including the
rules on choice of law, generally applicable to similar
48 proceedings originating in this State and may exercise all powers
and provide all remedies available in those proceedings; and

2 2. Determine duty and amount of support. Shall determine
3 the duty of support and the amount payable in accordance with the
4 law and support guidelines of this State.

6 **Comment**

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

18 **§423-C. Duties of initiating tribunal**

20 Upon the filing of a petition authorized by this Act, an
21 initiating tribunal of this State shall forward 3 copies of the
22 petition and its accompanying documents:

24 1. To responding tribunal or agency. To the responding
25 tribunal or appropriate support enforcement agency in the
26 responding state; or

28 2. To the state information agency. If the identity of the
29 responding tribunal is unknown, to the state information agency
30 of the responding state with a request that they be forwarded to
31 the appropriate tribunal and that receipt be acknowledged.

34 **Comment**

36 Under RURESA § 14, the initiating tribunal is required to
37 make a preliminary finding of the existence of a support
38 obligation, but in fact, observance of this obligation is erratic
39 across the nation. Under UIFSA, by contrast, the role of the
40 initiating tribunal consists merely of the ministerial function
41 of forwarding the documents. See *Mossburg v. Coffman*, 6 Kan.
42 App. 2d 428, 629 P.2d 745 (1981); *Neff v. Johnson*, 391 S.W.2d 760
43 (Tex. Civ. App. 1965).

46 **§423-D. Duties and powers of responding tribunal**

48 1. Duties of responding tribunal. When a responding
49 tribunal of this State receives a petition or comparable pleading
50

2 from an initiating tribunal or directly pursuant to section 423,
3 subsection 3, it shall cause the petition or pleading to be filed
4 and notify the petitioner by first class mail where and when it
5 was filed.

6 2. Powers of responding tribunal. A responding tribunal of
7 this State, to the extent otherwise authorized by law, may do one
8 or more of the following:

10 A. Issue or enforce a support order, modify a child support
11 order or render a judgment to determine parentage;

12 B. Order an obligor to comply with a support order,
13 specifying the amount and the manner of compliance;

14 C. Order income withholding;

15 D. Determine the amount of any arrearages and specify a
16 method of payment;

17 E. Enforce orders by civil or criminal contempt, or both;

18 F. Set aside property for satisfaction of the support order;

19 G. Place liens and order execution on the obligor's
20 property;

21 H. Order an obligor to keep the tribunal informed of the
22 obligor's current residential address, telephone number,
23 employer, address of employment and telephone number at the
24 place of employment;

25 I. Issue a capias for an obligor who has failed after
26 proper notice to appear at a hearing ordered by the tribunal
27 and enter the capias in any local and state computer systems
28 for criminal warrants;

29 J. Order the obligor to seek appropriate employment by
30 specified methods;

31 K. Award reasonable attorney's fees and other fees and
32 costs; and

33 L. Grant any other available remedy.

34 3. Calculations included. A responding tribunal of this
35 State shall include in a support order issued under this Act, or
36 in the documents accompanying the order, the calculations on
37 which the support order is based.

is not present in the tribunal. This distinction justifies prohibiting visitation issues from being litigated in the context of a support proceeding.

Subsection (e) [subsection 5] introduces the policy determination that the petitioner, the respondent, and the initiating tribunal, if any, shall be kept informed about actions taken by the responding tribunal. First class mail is sufficient for this purpose.

§423-E. Inappropriate tribunal

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

Comment

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

§423-F. Duties of support enforcement agency

1. Services to petitioner. The support enforcement agency of this State, upon request, shall provide services to a petitioner in a proceeding under this Act.

2. Duties. A support enforcement agency that is providing services to the petitioner as appropriate shall:

A. Take all steps necessary to enable an appropriate tribunal in this State or another state to obtain jurisdiction over the respondent;

2 B. Request an appropriate tribunal to set a date, time and
place for a hearing;

4 C. Make a reasonable effort to obtain all relevant
information, including information as to income and property
6 of the parties;

8 D. Within 2 days, exclusive of Saturdays, Sundays and legal
holidays, after receipt of a written notice from an
10 initiating, responding or registering tribunal, send a copy
of the notice by first class mail to the petitioner;

12 E. Within 2 days, exclusive of Saturdays, Sundays and legal
14 holidays, after receipt of a written communication from the
respondent or the respondent's attorney, send a copy of the
16 communication by first class mail to the petitioner; and

18 F. Notify the petitioner if jurisdiction over the
respondent can not be obtained.

20 3. No attorney or judiciary relationship. This Act does
22 not create or negate a relationship of attorney and client or
other fiduciary relationship between a support enforcement agency
24 or the attorney for the agency and the individual being assisted
by the agency.

28 **Comment**

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

32 Subsection (a) [subsection 1] changes the focus of RURESA
34 § 12 (Officials to Represent Obligee) from representation of an
obligee to providing services to a petitioner. Care should be
36 exercised in the use of terminology given this substantial
alteration of past practice under RURESA. Not only may either
38 the obligee or the obligor request services, but that request may
be in the context of the establishment of an order, enforcement
or review of an existing order, or a modification of that order
40 (upwards or downwards). Thus, those states that use the term
"petitioner" to refer to the "plaintiff" or "complainant" in the
42 original caption of the case may wish to substitute the term
"movant" in proceedings initiated after the establishment of a
44 support order.

46 Subsection (b) [subsection 2] responds to the complaint of
many RURESA petitioners that they are not properly kept informed
48 about the progress of their requests for services.

2. Subsection (c) [subsection 3] neither creates nor rejects
4 the establishment of an attorney-client or fiduciary relationship
6 between the support enforcement agency and a petitioner receiving
8 services from that agency. This controversial issue is left to
10 otherwise applicable state law.

8 **§423-G. Duty of Attorney General**

10 If the Attorney General determines that the support
12 enforcement agency is neglecting or refusing to provide services
14 to an individual, the Attorney General may order the agency to
perform its duties under this Act or may provide those services
directly to the individual.

16 **Comment**

18 This section continues the principle of RURESA § 18(c),
20 under which the Attorney General of the State, or an alternative
22 designated by the individual state statute, is given oversight
24 responsibility for the diligent provision of services by the
support enforcement agency and the power to seek compliance with
the Act.

26 **§423-H. Private counsel**

28 An individual may employ private counsel to represent the
30 individual in proceedings authorized by this Act.

32 **Comment**

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

40 **§423-I. Duties of state information agency**

42 **1. Designation of state information agency.** The Department
44 of Human Services is the state information agency under this Act.

46 **2. Duties.** The state information agency shall:

48 **A. Compile and maintain a current list, including**
50 **addresses, of the tribunals in this State that have**
jurisdiction under this Act and any support enforcement

2 agencies in this State and transmit a copy to the state
3 information agency of every other state;

4 B. Maintain a register of tribunals and support enforcement
5 agencies received from other states;

6
7 C. Forward to the appropriate tribunal in the place in this
8 State in which the individual obligee or the obligor
9 resides, or in which the obligor's property is believed to
10 be located, all documents concerning a proceeding under this
11 Act received from an initiating tribunal or the state
12 information agency of the initiating state; and

13
14 D. Obtain information concerning the location of the
15 obligor and the obligor's property within this State not
16 exempt from execution, by such means as postal verification
17 and federal or state locator services, examination of
18 telephone directories, requests for the obligor's address
19 from employers and examination of governmental records,
20 including, to the extent not prohibited by other law, those
21 relating to real property, vital statistics, law
22 enforcement, taxation, motor vehicles, driver's licenses and
23 social security.

24
25 **Comment**

26
27 This section, based on RURESA § 17 (State Information
28 Agency), continues the information-gathering duties of the
29 central agency.

30
31 Subsection (b)(4) [subsection 2, paragraph D] does not
32 provide independent access to the information sources or to the
33 governmental documents listed. Because states have different
34 requirements and limitations concerning such access based on
35 differing views of the privacy interests of individual citizens,
36 the agency is directed to use all lawful means under the relevant
37 state law to obtain and disseminate information.

38
39 **§423-J. Pleadings and accompanying documents**

40
41 **1. Petition; contents.** A petitioner seeking to establish
42 or modify a support order or to determine parentage in a
43 proceeding under this Act must verify the petition. Unless
44 otherwise ordered under section 423-K, the petition or
45 accompanying documents must provide, so far as known, the names,
46 residential addresses and social security numbers of the obligor
47 and the obligee, and the name, sex, residential address, social
48 security number, and date of birth of the obligor's child.

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

12 2. Specify relief sought. The petition must specify the
14 relief sought. The petition and accompanying documents must
16 conform substantially with the requirements imposed by the forms
18 mandated by federal law for use in cases filed by a support
20 enforcement agency.

22 **Comment**

24 This section is derived from RURESA § 11; it establishes the
26 basic requirements for the drafting and filing of interstate
28 pleadings and should be read in conjunction with § 312 [section
30 423-K], which provides for the confidentiality of certain
32 information if disclosure is likely to result in harm to a party
34 or a child.

36 Subsection (b) [subsection 2] provides authorization for the
38 use of the federally authorized forms promulgated in connection
40 with the IV-D child support enforcement program and mandates
42 substantial compliance with those forms. Although the use of
44 other forms is not prohibited, statutory preapproval of forms
46 that substantially conform to those mandated by federal law will
48 help to standardize documents, with a concomitant improvement in
50 the efficient processing of UIFSA actions.

52 **§423-K. Nondisclosure of information in exceptional circumstances**

54 Upon a finding, which may be made ex parte, that the health,
56 safety or liberty of a party or child would be unreasonably put
58 at risk by the disclosure of identifying information, or if an
60 existing order so provides, a tribunal shall order that the
62 address of the child or party or other identifying information
64 not be disclosed in a pleading or other document filed in a
66 proceeding under this Act.

68 **Comment**

70 Public awareness of and sensitivity to the dangers of
72 domestic violence has significantly increased since the
74 promulgation of RURESA. This section authorizes confidentiality
76 in instances where there is a serious risk of domestic violence
78 or child abduction. Although local law generally governs the

2 conduct of the forum tribunal, state law may not provide for
3 maintaining secrecy about the exact whereabouts of a litigant or
4 other information ordinarily required to be disclosed under state
5 law, e.g., Social Security number of the parties or the child.
6 If so, this provision creates a confidentiality provision which
7 is particularly appropriate in the light of the intractable
8 problems associated with interstate (as opposed to intrastate)
9 childnapping.

10 **§423-L. Costs and fees**

11
12 **1. No fees or costs by petitioner.** The petitioner may not
13 be required to pay a filing fee or other costs.

14
15 **2. Fees and costs if obligee prevails.** If an obligee
16 prevails, a responding tribunal may assess against an obligor
17 filing fees, reasonable attorney's fees, other costs and
18 necessary travel and other reasonable expenses incurred by the
19 obligee and the obligee's witnesses. The tribunal may not assess
20 fees, costs or expenses against the obligee or the support
21 enforcement agency of either the initiating or the responding
22 state, except as provided by other law. Attorney's fees may be
23 taxed as costs and may be ordered paid directly to the attorney,
24 who may enforce the order in the attorney's own name. Payment of
25 support owed to the obligee has priority over fees, costs and
26 expenses.

27
28 **3. Costs and fees if hearing for delay.** The tribunal shall
29 order the payment of costs and reasonable attorney's fees if it
30 determines that a hearing was requested primarily for delay. In
31 a proceeding under article 6, a hearing is presumed to have been
32 requested primarily for delay if a registered support order is
33 confirmed or enforced without change.
34

35
36 **Comment**

37
38 This section is derived from RURESA § 15 (Costs and Fees),
39 which authorizes fees and costs to be assessed against "the
40 obligor." In recognition of the fact that under UIFSA either the
41 obligor or the obligee may file suit, subsection (a) [subsection
42 1] permits either to file without payment of a filing fee or
43 other costs. Subsection (b) [subsection 2], however, continues
44 the RURESA rule that only the support obligor may be assessed the
45 specified costs and fees.
46

47
48 Subsection (c) [subsection 3] provides a sanction to deal
with a frivolous contest regarding compliance with an interstate

withholding order, registration of a support order, or comparable
delaying tactics regarding an appropriate enforcement remedy.

§423-M. Limited immunity of petitioner

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

2. Not amenable to service. A petitioner is not amenable
to service of civil process while physically present in this
State to participate in a proceeding under this Act.

3. Not applicable to unrelated acts. The immunity granted
by this section does not extend to civil litigation based on acts
unrelated to a proceeding under this Act committed by a party
while present in this State to participate in the proceeding.

Comment

This section significantly expands RURESA § 32. Under
subsection (a) [subsection 1], direct or indirect participation
in a UIFSA proceeding does not subject a petitioner to an
assertion of personal jurisdiction over the petitioner by the
forum state in other litigation between the parties. A petition
for affirmative relief under UIFSA limits the jurisdiction of the
tribunal to the boundaries of the support proceeding.

Similarly, subsection (b) [subsection 2] grants a litigant
immunity from service of process during the time a party is
physically present in a state for a UIFSA action. The immunity
provided is limited, however, and is not comparable to diplomatic
immunity. This is clear from reading subsection (c) [subsection
3] in conjunction with the other subsections; subsection (c)
[subsection 3] withholds immunity from civil litigation unrelated
to the support action stemming from contemporaneous acts
committed by a party while present in the state for the support
litigation. For example, if a petitioner is involved in an
automobile accident or a contract dispute over the cost of
lodging while present in the state, the immunity provided by this
section is inapplicable.

§423-N. Nonparentage as defense

2 A party whose parentage of a child has been previously
3 determined by or pursuant to law may not plead nonparentage as a
4 defense to a proceeding under this Act.

6 **Comment**

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

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

36 **§423-0. Special rules of evidence and procedure**

38 **1. Physical presence of petitioner not required.** The
39 physical presence of the petitioner in a responding tribunal of
40 this State is not required for the establishment, enforcement or
41 modification of a support order or the rendition of a judgment
42 determining parentage.

44 **2. Admissible evidence.** A verified petition, an affidavit,
45 a document substantially complying with federally mandated forms
46 and a document incorporated by reference in any of them, not
47 excluded under the hearsay rule if given in person, are
48 admissible in evidence if given under oath by a party or witness
49 residing in another state.

2 Subsections (b) through (f) [subsections 2 to 6] greatly
expand on RURESA § 23 (Rules of Evidence). The intent is to
4 eliminate as many potential hearsay problems as possible in
interstate litigation because usually the out-of-state party and
6 that party's witnesses do not appear in person at the hearing.

8 Subsection (d) [subsection 4] provides a simplified means
for proving health care expenses related to the birth of the
10 child. Because ordinarily these charges are not in dispute, this
is designed to obviate the cost of having health care providers
12 appear in person or of obtaining affidavits of business records
from each provider.

14 Subsections (e) and (f) [subsections 5 and 6] encourage
tribunals and litigants to take advantage of modern methods of
16 communication in interstate support litigation.

18 Subsection (g) [subsection 7] codifies the rule in effect in
many states that in civil litigation an adverse inference may be
20 drawn from a litigant's silence. See, e.g., *In re Matter of*
Joseph P., 487 N.Y.S.2d 685 (Fam. Ct. 1985); Pa. Cons. Stats.
22 Ann., Tit. 23, § 5104(c) (1991) (if "any party refuses to submit
to the tests, the court may resolve the question of paternity,
24 parentage or identity of a child against the party...."); 9 N.J.
Stats. Ann. 17-51(d) (1991) ("refusal to submit to blood tests or
26 genetic tests, or both, may be admitted into evidence and shall
give rise to the presumption that the results of the tests would
28 have been unfavorable to the interests of the party refusing");
La. Rev. Stats., Tit. 9, § 396(A) (1992) ("if any party refuses
30 to submit to such tests, the court may resolve the question of
paternity against such party....").

32
34 **§423-P. Communications between tribunals**

36 A tribunal of this State may communicate with a tribunal of
another state in writing, or by telephone or other means, to
38 obtain information concerning the laws of that state; the legal
effect of a judgment, decree or order of that tribunal; and the
40 status of a proceeding in the other state. A tribunal of this
State may furnish similar information by similar means to a
42 tribunal of another state.

44
46 **Comment**

48 This section is derived from UCCJA § 7(d) (Inconvenient
Forum), which authorizes communications between courts in order
to facilitate determination under that Act. Much broader
50 cooperation between tribunals is permitted under this Act to

2 expedite establishment and enforcement of the support order of
either the forum or of the sister state.

4 **§423-O. Assistance with discovery**

6 A tribunal of this State may:

8 1. Request another state's tribunal. Request a tribunal of
10 another state to assist in obtaining discovery; and

12 2. Compel response. Upon request, compel a person over
14 whom it has jurisdiction to respond to a discovery order issued
by a tribunal of another state.

16 **Comment**

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

26 **§423-R. Receipt and disbursement of payments**

28 The support enforcement agency or a tribunal of this State
30 shall disburse promptly any amounts received pursuant to a
32 support order, as directed by the order. The agency or tribunal
shall furnish to a requesting party or tribunal of another state
34 a certified statement by the custodian of the record of the
amounts and dates of all payments received.

36 **Comment**

38 The first sentence of this section is derived from RURESA
40 § 29 (Additional Duty of Initiating Court). The second sentence
confirms the duty of the agency or tribunal to furnish payment
42 information in interstate cases.

44 **Article 4**

46 **Establishment of Support Order**

48 **§424. Petition to establish support order**

2 1. Responding tribunal may issue support order. If a
3 support order entitled to recognition under this Act has not been
4 issued, a responding tribunal of this State may issue a support
5 order if:

6 A. The individual seeking the order resides in another
7 state; or

8 B. The support enforcement agency seeking the order is
9 located in another state.

10 2. Tribunal issue temporary support order. The tribunal
11 may issue a temporary child support order if:

12 A. The respondent has signed a verified statement
13 acknowledging parentage;

14 B. The respondent has been determined by or pursuant to law
15 to be the parent; or

16 C. There is other clear and convincing evidence that the
17 respondent is the child's parent.

18 3. Tribunal issue support order. Upon finding, after
19 notice and opportunity to be heard, that an obligor owes a duty
20 of support, the tribunal shall issue a support order directed to
21 the obligor and may issue other orders pursuant to section 423-D.

22
23
24
25 **Comment**

26 This section authorizes a tribunal of the responding state
27 to issue temporary and permanent support orders binding on an
28 obligor over whom the tribunal has personal jurisdiction. It
29 should be emphasized that UIFSA does not permit such orders to be
30 issued when another support order exists and another tribunal has
31 continuing, exclusive jurisdiction over the matter. See § 205
32 [section 422-D] (Continuing, Exclusive Jurisdiction) and § 206
33 [section 422-E] (Enforcement and Modification of Support Order by
34 Tribunal Having Continuing Jurisdiction).

35
36
37 **Article 5**

38 **Direct Enforcement of Order of**
39 **Another State without Registration**

40 **§425. Recognition of income-withholding order of another state**

official sanction of such practices. A recent study by the
2 federal General Accounting Office notes that employers in a
3 second state routinely recognize withholding orders of sister
4 states despite an apparent lack of statutory authority to do so.
5 This enactment recognizes actual practice.

6
7 Subsection (a) [subsection 1] does not define "regular on
8 its face," but the term should be liberally construed, see **U.S.**
9 **v. Morton**, 467 U.S. 822 (1984) ("legal process regular on its
10 face"). The rules governing intrastate procedure and defenses
11 for withholding orders will apply to interstate orders. Thus,
12 subsection (a) [subsection 1] makes clear that employers who
13 refuse to recognize out of state withholding orders will be
14 subjected to whatever remedies are otherwise available under
15 state law.

16
17 Similarly, subsection (b) [subsection 2] incorporates the
18 law regarding defenses an alleged obligor may raise to an
19 intrastate withholding order into the interstate context.
20 Generally, states have accepted the IV-D requirement that the
21 only allowable defense is a "mistake of fact." 42 U.S.C.
22 § 666(b)(4)(A). This apparently includes "errors in the amount
23 of current support owed, errors in the amount of accrued
24 arrearage ... or mistaken identity of the alleged obligor" while
25 excluding "other grounds, such as the inappropriateness of the
26 amount of support ordered to be paid, changed financial
27 circumstances of the obligor, or lack of visitation." H.R. Rep.
28 No. 98-527, 98th Cong., 1st Sess. 33 (1983). The latter claims
29 must be pursued in a separate legal action in the state having
30 continuing, exclusive jurisdiction over the support order, not in
31 a UIFSA proceeding.

32 33 **§425-A. Administrative enforcement of orders**

34
35 **1. Documents to support enforcement agency.** A party
36 seeking to enforce a support order or an income-withholding
37 order, or both, issued by a tribunal of another state may send
38 the documents required for registering the order to the
39 Department of Human Services, the support enforcement agency of
40 this State.

41
42 **2. Consider and enforce.** Upon receipt of the documents,
43 the support enforcement agency, without initially seeking to
44 register the order, shall consider and, if appropriate, use any
45 administrative procedure authorized by the law of this State to
46 enforce a support order or an income-withholding order, or both.
47 If the obligor does not contest administrative enforcement, the
48 order need not be registered. If the obligor contests the

2 validity or administrative enforcement of the order, the support
3 enforcement agency shall register the order pursuant to this Act.

4

5 **Comment**

6

7 This section authorizes summary enforcement of a sister
8 state child support order through any administrative means
9 available for local orders. Under subsection (a) [subsection 1],
10 any interested party in another state, necessarily including a
11 private attorney or a support enforcement agency, may forward a
12 support order or income-withholding order to a support
13 enforcement agency of the enacting state. [The Department of
14 Human Services is the support enforcement agency in this State.]

15

16 Subsection (b) [subsection 2] directs the support
17 enforcement agency in the enacting state to employ the enacting
18 state's regular administrative procedures to process the
19 out-of-state order. Thus, a local employer accustomed to dealing
20 with the local agency need not learn a new procedure in order to
21 comply with an out-of-state order.

22

23

24 **Article 6**

25

26 **Enforcement and Modification of Support**
27 **Order after Registration**

28

29 **Subarticle 1**

30

31 **Registration and Enforcement of Support Order**

32

33 **§426. Registration of order for enforcement**

34

35 A support order or an income-withholding order issued by a
36 tribunal of another state may be registered in this State for
37 enforcement.

38

39

40 **Comment**

41

42 Part A [subarticle 1] of Article 6 greatly expands the
43 procedure for the registration of foreign support orders
44 available under RURESA §§ 35-40. The common practice of
45 initiating a new suit for the establishment of a support order
46 irrespective of the fact that there is an existing order for
47 support will become obsolete under UIFSA. The fact that RURESA
48 permits (really encourages) initiation of a new suit in those
49 circumstances led to the multiple support order system that UIFSA
50 is designed to eliminate.

2 Under the one-order system of UIFSA, the only existing order
4 is to be enforced. Registration of that order in the responding
6 state is the first step to enforcement by a tribunal of that
8 state. Rather than being an optional device as is the case under
10 RURESA, registration for enforcement under UIFSA is the primary
12 method for interstate enforcement by a tribunal. If a prior
14 support order has been validly issued, only that order is to be
16 enforced against the obligor in the absence of very narrow
18 strictly defined fact situations in which an existing order may
20 be modified. See §§ 609 through 612 [sections 426-H to 426-K].
22 Additionally, until that order is modified, it is fully
24 enforceable in the responding state.

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

34 §426-A. Procedure to register order for enforcement

36 1. Required documents and information. A support order or
38 income-withholding order of another state may be registered in
40 this State by sending the following documents and information to
42 the appropriate tribunal in this State:

44 A. A letter of transmittal to the tribunal requesting
46 registration and enforcement;

48 B. Two copies, including one certified copy, of all orders
50 to be registered, including any modification of an order;

C. A sworn statement by the party seeking registration or a
certified statement by the custodian of the records showing
the amount of any arrearages;

D. The name of the obligor and, if known:

(1) The obligor's address and social security number;

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

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

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

2 State A order, which is to be enforced by a tribunal of State B.
3 Although State B's rules of evidence and procedure apply, except
4 as supplemented or specifically superseded by the Act, the order
5 itself remains subject to the continuing, exclusive jurisdiction
6 of State A so long as the requirements for that authority set
7 forth in Section 205 [section 422-D] remain intact.

8 Subsection (b) [subsection 2] is derived from RURES
9 § 40(a). Although RURES specifically subjects a registered
10 order to "proceedings for reopening, vacating, or staying as a
11 support order of this State," these remedies are not authorized
12 under UIFSA. While a foreign support order is to be enforced and
13 satisfied in the same manner as if it had been issued by a
14 tribunal of the registering state, the order to be enforced
15 remains an order of the issuing state. Conceptually, the
16 responding state is enforcing the order of another state, not its
17 own order. Any request for relief that requires application of
18 the continuing, exclusive jurisdiction of the issuing tribunal
19 must be sought in the issuing forum.

20 Subsection (c) [subsection 3] mandates enforcement of the
21 registered order. See §§ 606 through 608 [sections 426-E to
22 426-G]. This is at sharp variance with the RURES § 40 practice,
23 which states that "the registered foreign support order shall be
24 treated in the same manner as a support order issued by a court
25 of this State." This language was generally interpreted as
26 converting the foreign order into an order of the registering
27 state. Once the registering court concludes that it is enforcing
28 its own order, the next logical step is the conclusion that the
29 order may be modified, which results in another version of the
30 multiple order system. UIFSA mandates an end to this process,
31 except as modification is authorized in this article, see §§ 609
32 through 612 [sections 426-H to 426-K].

33 Because under UIFSA there is only one order in existence at
34 any one time, that order is enforceable in a responding state
35 irrespective of whether such an order might be modified. That
36 is, if neither the child nor the parties continue to reside in
37 the issuing state, the issuing tribunal loses its continuing,
38 exclusive jurisdiction over its child support order.
39 Nonetheless, the order continues to be fully enforceable until
40 the potential for modification actually occurs in accordance with
41 the strict terms for such an action as set forth in Part C
42 [subarticle 3] of this article, §§ 609-612 [sections 426-H to
43 426-K].

44 **§426-C. Choice of law**
45
46
47
48

2 1. Current payments, other obligations and arrearages under
3 order. The law of the issuing state governs the nature, extent,
4 amount and duration of current payments and other obligations of
5 support and the payment of arrearages under the order.

6 2. Proceeding for arrearages. In a proceeding for
7 arrearsages, the statute of limitation under the laws of this
8 State or of the issuing state, whichever is longer, applies.

10 **Comment**

12 This section identifies situations in which local law is
13 inapplicable. For example, under subsection (a) [subsection 1]
14 an order for the support of a child until age 21 must be
15 recognized and enforced in that manner in a state in which the
16 duty of support of a child ends at age 18. See *Gonzalez-Goengaga*
17 *v. Gonzalez*, 426 So.2d 1106 (Fla. App. 1983); *Taylor v. Taylor*,
18 122 Cal. App. 3d 209, 175 Cal. Rptr. 716 (1981).

20 Subsection (b) [subsection 2] contains a similar choice of
21 law provision that may diverge from local law. Whichever state's
22 statute of limitations is longer is to be applied. In interstate
23 cases arrearages will often have accumulated over a considerable
24 period of time before enforcement is perfected. The obligor
25 should not gain an undue benefit from the choice of residence if
26 the forum state has a short statute of limitations for arrearages.

28 **Subarticle 2**

30 **Contest of Validity or Enforcement**

32 **§426-D. Notice of registration of order**

34 1. Time and method of notice. When a support order or
35 income-withholding order issued in another state is registered,
36 the registering tribunal shall notify the nonregistering party.
37 Notice must be given by first class, certified or registered mail
38 or by any means of personal service authorized by the law of this
39 State. The notice must be accompanied by a copy of the
40 registered order and the documents and relevant information
41 accompanying the order.

42 2. Contents of notice. The notice must inform the
43 nonregistering party:

44 A. That a registered order is enforceable as of the date of
45 registration in the same manner as an order issued by a
46 tribunal of this State;
47

2 B. That a hearing to contest the validity or enforcement of
4 the registered order must be requested within 20 days after
 the date of mailing or personal service of the notice;

6 C. That failure to contest the validity or enforcement of
8 the registered order in a timely manner will result in
10 confirmation of the order and enforcement of the order and
 the alleged arrearages and precludes further contest of that
 order with respect to any matter that could have been
 asserted; and

12 D. Of the amount of any alleged arrearages.

14 3. Notice to employer. Upon registration of an
16 income-withholding order for enforcement, the registering
18 tribunal shall notify the obligor's employer pursuant to chapter
 14-B.

20

Comment

22

24 Part B [subarticle 2] of Article 6 provides the procedure
26 for the nonregistering party to contest registration of an order,
 either because the order is allegedly invalid, superseded, or no
 longer in effect, or because the enforcement remedy being sought
 is opposed by the nonregistering party.

28

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

34

36 §426-E. Procedure to contest validity or enforcement of
 registered order

38

40 1. Timing and remedies. A nonregistering party seeking to
42 contest the validity or enforcement of a registered order in this
44 State must request a hearing within 20 days after the date of
46 mailing or personal service of notice of the registration. The
 nonregistering party may seek to vacate the registration, to
 assert any defense to an allegation of noncompliance with the
 registered order or to contest the remedies being sought or the
 amount of any alleged arrearages pursuant to section 426-F.

48 2. Order confirmed if contest not timely. If the
 nonregistering party fails to contest the validity or enforcement

2 of the registered order in a timely manner, the order is
3 confirmed by operation of law.

4 3. Notice of hearing to the parties. If a nonregistering
5 party requests a hearing to contest the validity or enforcement
6 of the registered order, the registering tribunal shall schedule
7 the matter for hearing and give notice to the parties by first
8 class mail of the date, time and place of the hearing.

10 **Comment**

12 Subsection (a) [subsection 1] is derived in part from RURESA
13 § 40(b), under which the "obligor" is directed to contest the
14 registration of a foreign order within a short period of time.
15 This procedure is continued, but the terminology is changed to
16 "nonregistering party" because either the obligor or the obligee
17 may seek to register a foreign support order. Moreover, the
18 subsection is philosophically very different from RURESA § 40,
19 which directs that a registered order "shall be treated in the
20 same manner as a support order issued by a court of this state."
21 A contest of the fundamental provisions of the registered order
22 is not permitted "in this State." The nonregistering party must
23 return to the issuing state to prosecute such a contest, and then
24 only as the law of that state permits. The procedure adopted
25 here is akin to the prohibition of the nonparentage defense found
26 in Section 315 [section 423-N]; that is, raising the issue in a
27 UIFSA proceeding is prohibited, but no attempt is made to
28 preclude the issue from being litigated in another, more
29 appropriate forum if otherwise allowable by that forum. On the
30 other hand, the respondent may assert defenses such as "payment"
31 or "the obligation has terminated" to allegations of past
32 noncompliance with the registered order. Similarly, a
33 constitutionally-based attack may always be asserted, *i.e.*, an
34 alleged lack of personal jurisdiction over a party by the issuing
35 tribunal. There is no defense, however, to the registration of a
36 valid foreign support order.

38 Subsection (b) [subsection 2] precludes an untimely contest
39 of a registered support order. As noted above, the
40 nonregistering party is free to seek redress in the issuing state
41 from the tribunal with continuing, exclusive jurisdiction over
42 the support order.

44 Subsection (c) [subsection 3] directs that a hearing be
45 scheduled when the nonregistering party contests some aspect of
46 the registration. At present, federal regulations govern the
47 allowable time frames for contesting income withholding in IV-D
48 cases. See 42 U.S.C. § 666(b). Further codification of that
49 process is unwise.

2 **§426-F. Contest of registration or enforcement**

4 **1. Defenses to contest validity or enforcement.** A party
6 contesting the validity or enforcement of a registered order or
8 seeking to vacate the registration has the burden of proving one
10 or more of the following defenses:

12 A. The issuing tribunal lacked personal jurisdiction over
14 the contesting party;

16 B. The order was obtained by fraud;

18 C. The order has been vacated, suspended or modified by a
20 later order;

22 D. The issuing tribunal has stayed the order pending appeal;

24 E. There is a defense under the law of this State to the
26 remedy sought;

28 F. Full or partial payment has been made; or

30 G. The statute of limitation under section 426-C precludes
32 enforcement of some or all of the arrearages.

34 **2. Full or partial defense.** If a party presents evidence
36 establishing a full or partial defense under subsection 1, a
38 tribunal may stay enforcement of the registered order, continue
40 the proceeding to permit production of additional relevant
42 evidence and issue other appropriate orders. An uncontested
44 portion of the registered order may be enforced by all remedies
46 available under the law of this State.

48 **3. Confirmation of order.** If the contesting party does not
50 establish a defense under subsection 1 to the validity or
52 enforcement of the order, the registering tribunal shall issue an
54 order confirming the order.

56 **Comment**

58 Subsection (a) [subsection 1] places the burden on the
60 nonregistering party to assert narrowly defined defenses to
62 registration of a support order.

64 If the obligor is liable for current support, under
66 subsection (b) [subsection 2] the tribunal must enter an order to
68 enforce that obligation. Proof of arrearages must result in
70 enforcement; under the Bradley Amendment, 42 U.S.C. § 666(a)(10),

2 all states are required to treat child support payments as final
3 judgments as they come due (or lose federal funding). Therefore,
4 such arrearages are not subject to retroactive modification.

6 **§426-G. Confirmed order**

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

14 **Comment**

16 The policy determination that foreign support orders may
17 need to be confirmed by the forum tribunal is found in URESA
18 § 40, but the process of confirmation is not explained. Under
19 UIFSA, confirmation of an order may be the result of operation of
20 law because of a failure to contest or an unsuccessful contest
21 after a hearing. Either method precludes raising any issue that
22 could have been asserted in a hearing. Confirmation of a foreign
23 support order validates both the terms of the order and the
24 asserted arrearages. See *Chapman v. Chapman*, 205 Cal. App. 3d
25 253, 252 Cal. Rptr. 359 (1988).

28 **Subarticle 3**

30 **Registration and Modification**
31 **of Child Support Order**

32 **§426-H. Procedure to register child support order of another**
33 **state for modification**

36 A party or support enforcement agency seeking to modify, or
37 to modify and enforce, a child support order issued in another
38 state shall register that order in this State in the same manner
39 provided in subarticle 1 if the order has not been registered. A
40 petition for modification may be filed at the same time as a
41 request for registration, or later. The pleading must specify
42 the grounds for modification.

44 **Comment**

46 Part C [subarticle 3] of Article 6 deals with situations in
47 which it is necessary for a registering state to modify the
48 existing child support order of another state. As long as the
49 issuing state maintains its continuing, exclusive jurisdiction
50

2 over its order, a registering sister state is precluded from
3 modifying that order. This is a very significant departure from
4 the multiple-order, multiple-modification system of RURESA.
5 However, if the issuing state no longer has a sufficient interest
6 in the modification of its order because neither the child nor
7 the parties continue to reside there, under appropriate
8 circumstances a registering state may assume the power to
9 modify. Note that authority to modify is limited to child
10 support orders; the Act does not contemplate modification of
11 spousal support orders.

12 A petitioner wishing to register a support order of another
13 state for purposes of modification must conform to the general
14 requirements for pleadings in Section 311 [section 423-J]
15 (Pleadings and Accompanying Documents), and follow the procedure
16 for registration set forth in Section 602 [section 426-A]
17 (Procedure To Register Order for Enforcement). If the tribunal
18 has the requisite jurisdiction over the parties as established in
19 § 611 [section 426-J], modification may be sought in conjunction
20 with registration and enforcement, or at a later date after the
21 order has been registered, confirmed, and enforced.

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24 **§426-I. Effect of registration for modification**

25 A tribunal of this State may enforce a child support order
26 of another state registered for purposes of modification in the
27 same manner as if the order had been issued by a tribunal of this
28 State, but the registered order may be modified only if the
29 requirements of section 426-J have been met.

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33 **Comment.**

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35 An order registered for purposes of modification may be
36 enforced in the same manner as an order registered for purposes
37 of enforcement. But, the power of the forum tribunal to modify a
38 child support order of another tribunal is limited by the
39 specific factual preconditions set forth in § 611 [section 426-J].

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41
42 **§426-J. Modification of child support order of another state**

43 **1. Modification of order issued in another state. After a**
44 **child support order issued in another state has been registered**
45 **in this State, the responding tribunal of this State may modify**
46 **that order only if, after notice and hearing, it finds that:**

47

48 **A. The following requirements are met:**

2 (1) The child, the individual obligee and the obligor
3 do not reside in the issuing state;

4 (2) A petitioner who is a nonresident of this State
5 seeks modification; and

6 (3) The respondent is subject to the personal
7 jurisdiction of the tribunal of this State; or

8 B. An individual party or the child is subject to the
9 personal jurisdiction of the tribunal and all of the
10 individual parties have filed a written consent in the
11 issuing tribunal providing that a tribunal of this State may
12 modify the support order and assume continuing, exclusive
13 jurisdiction over the order.

14 2. Modification, enforcement and satisfaction.
15 Modification of a registered child support order is subject to
16 the same requirements, procedures and defenses that apply to the
17 modification of an order issued by a tribunal of this State and
18 the order may be enforced and satisfied in the same manner.

19 3. No modification. A tribunal of this State may not
20 modify any aspect of a child support order that may not be
21 modified under the law of the issuing state.

22 4. Modification order; continuing, exclusive jurisdiction.
23 On issuance of an order modifying a child support order issued in
24 another state, a tribunal of this State becomes the tribunal of
25 continuing, exclusive jurisdiction.

26 5. Filing of modified order. Within 30 days after issuance
27 of a modified child support order, the party obtaining the
28 modification shall file a certified copy of the order with the
29 issuing tribunal that had continuing, exclusive jurisdiction over
30 the earlier order and with each tribunal in which the party knows
31 that the earlier order has been registered.

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42 **Comment**

43 When a foreign support order is enforced in a registering
44 state under UIFSA, the rights of the parties affected have been
45 litigated previously. Because the obligor already has had a day
46 in court, an enforcement remedy may be summarily invoked. On the
47 other hand, modification of an existing order presupposes a
48 change in the rights of the parties. Therefore, even under
 RURESA more elaborate procedures were required by most states

2 prior to the issuance of a modified order. These requirements
are much more explicit and restrictive under UIFSA.

4 A support order registered under RURESA for the purpose of
6 enforcement is treated as if originally issued by the registering
tribunal. Most states have interpreted the RURESA registration
8 provisions as also authorizing prospective modification of the
registered order, see, *e.g.*, *Lagerwey v. Lagerwey*, 681 P.2d 309
10 (Alaska 1984); *In re Marriage of Aron*, 224 Cal. App. 3d 1086
(1990); *MacFadden v. Martini*, 119 Misc. 2d 94, 463 N.Y.S.2d 674
12 (1983); *Pinner v. Pinner*, 33 N.C. App. 204, 234 S.E.2d 633
(1977). In sum, by its terms RURESA contemplates existence of
14 multiple support orders, none of which is directly related to any
of the others. Although the issuing tribunal under RURESA
16 retains continuing jurisdiction to modify its own order, that
power is not exclusive. Tribunals in other states often assume
18 jurisdiction to enter new orders or to modify an out-of-state
support order.

20 Under UIFSA a tribunal may modify an existing child support
order of another state only if certain quite limited conditions
22 are met. First, the tribunal must have all the prerequisites for
the exercise of personal jurisdiction required for rendition of
24 an original support order. Second, one of the restricted fact
situations described in subsection (a) [subsection 1] must be
26 present. This section, which is a counterpart to Section 205(b)
[section 422-D, subsection 2] (Continuing, Exclusive
28 Jurisdiction), establishes the conditions under which the
continuing jurisdiction of the issuing tribunal is released. The
30 Uniform Child Custody Jurisdiction Act §§ 12-14 provides general
principles for the judicial determination of an appropriate fact
32 situation for subsequent modification of an existing custody
order by another court. In contrast, UIFSA establishes a set of
34 "bright line" rules for modification of an existing child support
order.

36 Under UIFSA, registration is subdivided into distinct
38 categories: registration for enforcement, for modification, or
both. Subsection (a) [subsection 1] contemplates modification of
40 an existing child support order only under the limited
circumstances described, thus eliminating multiple support orders
42 to the maximum extent possible consistent with the principle of
continuing, exclusive jurisdiction that pervades the Act. The
44 continuing, exclusive jurisdiction of the issuing tribunal
remains intact so long as one party or the child continue to
46 reside in the issuing state, or unless the parties mutually agree
to the contrary. This is also the standard for recognition of
48 sister state custody orders under the federal Parental Kidnapping
Prevention Act, 28 U.S.C. § 1738A. Once every individual party
50 and the child leave the issuing state, the continuing, exclusive

jurisdiction of the tribunal terminates, although the order remains in effect and enforceable until it is modified. If and when the order is modified by a tribunal of another state, the principle of continuing, exclusive jurisdiction is further ratified; the order of the modifying tribunal becomes the operative "only-order-in-effect."

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

Note that subsection (a)(1) [subsection 1, paragraph A] requires that the petitioner be a nonresident of the forum in which modification is sought and the respondent to be subject to the jurisdiction of that forum. This contemplates that the issuing state has lost continuing, exclusive jurisdiction and that the obligee may seek modification in the obligor's state of residence, or that the obligor may seek a modification in the obligee's state of residence. This restriction attempts to achieve a rough justice between the parties in the majority of cases by preventing a litigant from choosing to seek modification in a local court to the marked disadvantage of the other party. For example, an obligor visiting the children at the residence of the obligee cannot be validly served with citation accompanied by a motion to modify the support order. Even though such personal service of the obligor in the obligee's home state is consistent with the jurisdictional requisites of **Burnham v. Superior Court**, 495 U.S. 604 (1990), the motion to modify does not fulfill the requirement of being brought by "a petitioner who is a nonresident of this State" The obligee is required to make that motion in a state other than that of his or her residence which has personal jurisdiction over the obligor. Most typically this will be the state of residence of the obligor. Similarly, fairness requires that an obligee seeking to modify or enforce the existing order in the state of residence of the obligor will not be subject to a cross-motion to modify custody or visitation merely because the issuing state has lost its continuing, exclusive jurisdiction over the support order. The obligor is required to make that motion in a state other than that of his or her residence; most likely, the obligee's state of residence. Finally, note that if both parties have left the issuing state and now reside in the same state, this section is not applicable. Such a fact situation does not present an interstate matter and UIFSA does not apply. Rather, the issuing

2 state has lost its continuing exclusive jurisdiction and the
forum state, as the residence of both parties, should apply local
law without regard to the interstate Act.

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

12
14 Modification of child support under subsections (a)(1)
[subsection 1, paragraph A] and (a)(2) [subsection 1, paragraph
B] is distinct from custody modification under the federal
16 Parental Kidnapping Prevention Act, 42 U.S.C. § 1738A, which
provides that the court of continuing, exclusive jurisdiction may
18 "decline jurisdiction." Similar provisions are found in the
UCCJA, § 14. In those statutes the methodology for the
20 declination of jurisdiction is not spelled out, but rather is
left to the discretion of possibly competing courts for
22 case-by-case determination. The privilege of declining
jurisdiction, thereby creating the potential for a vacuum, is not
24 authorized under UIFSA. Once an initial child support order is
established, at all times thereafter there is an existing order
26 in effect to be enforced. Even if the issuing court no longer
has continuing, exclusive jurisdiction, its order remains fully
28 enforceable until a court with modification jurisdiction issues a
new order in conformance with this article.

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32 Subsection (b) [subsection 2] states that if the forum has
modification jurisdiction because the issuing state has lost
continuing jurisdiction, the proceedings will generally follow
34 local law with regard to modification of child support orders.
However, subsection (c) [subsection 3] prevents the modification
36 of any final, nonmodifiable aspect of the original order. For
example, if child support was ordered through age 21 in
38 accordance with the law of the issuing state and the law of the
forum state ends the support obligation at 18, modification by
40 the forum tribunal may not affect the duration of the support
order to age 21.

42
44 Subsection (d) [subsection 4] provides that upon
modification the new order becomes the one-order to be recognized
46 by all UIFSA states, and the issuing tribunal acquires
continuing, exclusive jurisdiction.

48 Finally, subsection (e) [subsection 5] directs that the
original issuing state be notified that it no longer is
50 responsible to exercise its continuing, exclusive jurisdiction.

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§426-K. Recognition of order modified in another state

A tribunal of this State shall recognize a modification of its earlier child support order by a tribunal of another state that assumed jurisdiction pursuant to a law substantially similar to this Act and, upon request, except as otherwise provided in this Act, shall:

1. Enforce amounts accruing before modification. Enforce the order that was modified only as to amounts accruing before the modification;

2. Enforce nonmodifiable aspects. Enforce only nonmodifiable aspects of that order;

3. Relief for violations before modification. Provide other appropriate relief only for violations of that order that occurred before the effective date of the modification; and

4. Recognize modifying order. Recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

Comment

Independent support orders relating to the same parties, a hallmark of RURESA, are replaced in UIFSA by deference to the support order of a sister state. This applies not just to the original order, but also to a modified child support order issued by a second state under the standards established by Section 611 [section 426-J] (Modification of Child Support Order of Another State). For the Act to function properly, the original issuing state must recognize and defer to such a modified order, and must regard its prior order as prospectively inoperative. Because the modifying tribunal lacks the authority to direct the original issuing state to release its continuing jurisdiction, each state must recognize this effect by enacting UIFSA.

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

2 may be enforced under the law of the issuing state irrespective
of the law of the modifying state.

4 **Article 7**

6 **Determination of Parentage**

8 **§427. Proceeding to determine parentage**

10 **1. Initiating or responding tribunal.** A tribunal of this
12 State may serve as an initiating or responding tribunal in a
14 proceeding brought under this Act or a law substantially similar
to this Act, the Uniform Reciprocal Enforcement of Support Act or
16 the Revised Uniform Reciprocal Enforcement of Support Act to
determine that the petitioner is a parent of a particular child
or to determine that a respondent is a parent of that child.

18 **2. Law applied.** In a proceeding to determine parentage, a
20 responding tribunal of this State shall apply the procedural and
substantive law of this State, and the rules of this State on
22 choice of law.

24 **Comment**

26 This article authorizes a "pure" parentage action in the
28 interstate context, *i.e.*, an action not joined with a claim for
support. Either the mother or a man alleging to be the father of
30 a child may bring such an action. More commonly, an action to
determine parentage across state lines will also seek to
32 establish a support order under the Act. See § 401 [section 424]
([Petition] to Establish Support Order).

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

38 **Article 8**

40 **Interstate Rendition**

42 **§428. Grounds for rendition**

44 **1. Governor.** For purposes of this article, "governor"
46 includes an individual performing the functions of governor or
the executive authority of a state covered by this Act.

48 **2. Powers of governor.** The Governor may:

2 A. Demand that the governor of another state surrender an
4 individual found in the other state who is charged
criminally in this State with having failed to provide for
the support of an obligee; or

6 B. On the demand by the governor of another state,
8 surrender an individual found in this State who is charged
criminally in the other state with having failed to provide
for the support of an obligee.

10 3. Application of provision for extradition. A provision
12 for extradition of individuals not inconsistent with this Act
14 applies to the demand described in subsection 2 even if the
16 individual whose surrender is demanded was not in the demanding
state when the crime was allegedly committed and has not fled
from that state.

18 **Comment**

20 This section tracks RURESA § 5 (Interstate Rendition) with
22 no substantive change. Virtually no controversy has been
24 generated regarding this portion of RURESA. Arguably application
26 of subsection (c) [subsection 3] is problematical in situations
28 in which the obligor neither was present in the demanding state
30 at the time of the commission of the crime nor fled from the
32 demanding state. The possibility that an individual may commit a
34 crime in a state without ever being physically present there has
36 elicited considerable discussion and some case law. See L.
38 Brilmayer, "An Introduction to Jurisdiction in the American
40 Federal System," 329-335 (1986) (discussing minimum contacts
theory for criminal jurisdiction); Rotenberg, "Extraterritorial
Legislative Jurisdiction and the State Criminal Law," 38 Tex. L.
Rev. 763, 784-87 (1960) (due process requires defendant's
behavior must be predictably subject to state's criminal
jurisdiction); cf. *Ex parte Boetscher*, 812 S.W.2d 600 (Tex. Crim.
App. 1991) (Equal Protection Clause limits disparate treatment of
nonresident defendants); *In re King*, 3 Cal.3d 226, 90 Cal. Rptr.
15, 474 P.2d 983 (1970, cert. denied 403 U.S. 931) (enhanced
offense for nonresidents impacts constitutional right to travel).

42 **§428-A. Conditions of rendition**

44 1. Proceedings for support as prerequisite. Before making
46 demand that the governor of another state surrender an individual
48 charged criminally in this State with having failed to provide
for the support of an obligee, the Governor may require a
50 prosecutor of this State to demonstrate that at least 60 days
previously the obligee had initiated proceedings for support

pursuant to this Act or that the proceeding would be of no avail.

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4 2. Criminal charge in another state. If, under this Act or
6 a law substantially similar to this Act, the Uniform Reciprocal
8 Enforcement of Support Act or the Revised Uniform Reciprocal
10 Enforcement of Support Act, the governor of another state makes a
12 demand that the Governor surrender an individual charged
14 criminally in that state with having failed to provide for the
16 support of a child or other individual to whom a duty of support
18 is owed, the Governor may require a prosecutor to investigate the
20 demand and report whether a proceeding for support has been
22 initiated or would be effective. If it appears that a proceeding
24 would be effective but has not been initiated, the Governor may
26 delay honoring the demand for a reasonable time to permit the
28 initiation of a proceeding.

3. Declination to honor demand. If a proceeding for
support has been initiated and the individual whose rendition is
demanded prevails, the Governor may decline to honor the demand.
If the petitioner prevails and the individual whose rendition is
demanded is subject to a support order, the Governor may decline
to honor the demand if the individual is complying with the
support order.

Comment

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

Article 9

Miscellaneous Provisions

§429. Uniformity of application and construction

This Act must be applied and construed to effectuate its
general purpose to make uniform the law with respect to the
subject of this Act among states enacting it.

§429-A. Short title

This chapter may be cited as the Uniform Interstate Family
Support Act.

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Comment

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

§429-B. Effective date

This Act takes effect July 1, 1995.

Sec. 3. Effective date. This Act takes effect July 1, 1995.

STATEMENT OF FACT

This bill adopts the Uniform Interstate Family Support Act and repeals the Revised Uniform Reciprocal Enforcement of Support Act.

This document has not yet been reviewed to determine the need for cross-reference, stylistic and other technical amendments to conform existing law to current drafting standards.