

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## FIRST REGULAR SESSION-2003

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Legislative Document

No. 986

S.P. 327

In Senate, February 25, 2003

### **An Act To Enact the Uniform Interstate Family Support Act Amendments of 1996 and 2001**

---

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by Senator LaFOUNTAIN of York.  
Cosponsored by Senators: DOUGLASS of Androscoggin, MAYO of Sagadahoc,  
PENDLETON of Cumberland, ROTUNDO of Androscoggin.

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

2

**UNIFORM COMMENT**

4

**PREFATORY NOTE**

6

**I. BACKGROUND INFORMATION**

8

10 In 1992 the National Conference of Commissioners on Uniform State  
12 Laws [hereafter NCCUSL, the Conference, or Uniform Law  
14 Commissioners] promulgated the UNIFORM INTERSTATE FAMILY SUPPORT  
16 ACT [hereafter UIFSA] as a complete replacement for the two  
18 then-existing uniform interstate support acts, the UNIFORM  
20 RECIPROCAL ENFORCEMENT OF SUPPORT ACT [URESAs] and its revised  
22 version [RURESAs]. In 1993 two States, Arkansas and Texas, enacted  
24 UIFSA. By the summer of 1996, 35 States had adopted the new  
Uniform Act. That year was a very eventful one in the history of  
UIFSA. First, a Drafting Committee was convened in Spring 1996 in  
response to requests from representatives of employer groups for  
more specific statutory directions regarding interstate  
child-support withholding orders. Second, the child-support  
community (primarily the IV-D programs funded by federal  
subsidies) requested review of the substantive and procedural  
provisions. As a result, significant amendments to UIFSA were  
adopted by the Conference in July, 1996.

26

28 The Conference promulgated UIFSA in July, 1996. Less than one  
month later, the U.S. Congress assured that nationwide acceptance  
of the amended Act was virtually certain. In the "welfare reform"  
30 legislation passed in August 1996, officially known as the  
PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT  
32 OF 1996 (PRWORA), the enactment of UIFSA, as amended, was  
mandated as a condition of state eligibility for the federal  
34 funding of child support enforcement, as follows:

36

Sec. 321. ADOPTION OF UNIFORM STATE LAWS [42 U.S.C. Section 666]  
is amended by adding at the end the following new subsection:

38

40 "(f) Uniform Interstate Family Support Act.--In order to satisfy  
[42 U.S.C. 654(20)(A)], on and after January 1, 1998, each State  
42 must have in effect the Uniform Interstate Family Support Act, as  
approved by the American Bar Association on February 9, 1993,  
44 together with any amendments officially adopted before January 1,  
1998, by the National Conference of Commissioners on Uniform  
State Laws." P.L. 104-193, Section 321, 110 Stat. 2221.

46

48 For a comprehensive history of the events leading up to the  
replacement of URESAs and RURESAs by UIFSA, see the Prefatory Notes  
50 to the 1992 and 1996 versions of the Act found in 9 UNIFORM LAWS  
ANNOTATED 253, 393 (2000), or John J. Sampson, Uniform Interstate

2 Family Support Act with Unofficial Annotations, 27 FAM. L.Q. 91  
4 (1993), and John J. Sampson, Uniform Interstate Family Support  
6 Act (1996), Statutory Text, Prefatory Note, and Commissioners  
8 Comments (with More Unofficial Annotations), 32 FAM. L.Q. 385  
10 (1998).

12 In accordance with the congressional mandate, by 1998 all U.S.  
14 jurisdictions had enacted UIFSA. Thus, the several states have  
16 had between four and eight years of experience with the various  
18 iterations of the Act. Moreover, there has been an extraordinary  
20 amount of comprehensive training about the Act by the child  
22 support enforcement agencies throughout the nation and associated  
24 agencies and organizations of those agencies, e.g.: U.S.  
26 Department of Health and Human Services, Office of Child Support  
28 Enforcement (OCSE); National Child Support Enforcement  
30 Association (NCSEA); Eastern Regional Interstate Child Support  
32 Association (ERICSA); and, Western Interstate Child Support  
34 Enforcement Council (WICSEC). As a consequence, the provisions of  
36 UIFSA are far more familiar to those who must administer it than  
38 ever was true of its predecessor acts, URESA and RURESА.

40 In 2000 the child-support community again requested that the Act  
42 be reviewed and amendments suggested as appropriate. In response  
44 to this request, the Conference leadership appointed a new  
46 Drafting Committee (the earlier Committee had been disbanded). A  
48 single meeting in March 2001 led to significant substantive and  
50 procedural amendments that ultimately were approved by the  
Conference at its Annual Meeting in August, 2001. None of the  
amendments, however, make a fundamental change in the policies  
and procedures established in UIFSA 1996. The widespread  
acceptance of UIFSA is due primarily to the fact that  
representatives of the child support enforcement community  
mentioned above participated actively in the drafting of each  
version of the Act, including the amendments of 2001. In sum,  
although two sets of amendments have been propounded since the  
initial 1992 version of UIFSA, its basic principles have remained  
constant.

## 40 **II. BASIC PRINCIPLES OF UIFSA**

### 42 **A. In General**

44 1. RECIPROCITY NOT REQUIRED BETWEEN STATES. Reciprocal laws, the  
46 hallmark of RURESА and URESА, are not required under UIFSA.  
48 Although reciprocity became irrelevant in this country with the  
50 universal adoption of UIFSA, reciprocity continues to be an issue  
with regard to the recognition and enforcement of support orders  
of foreign countries and their political subdivisions, Sections  
102(21), 104, 308. Respect and tolerance for the laws of other  
states and nations in order to facilitate child support

2 enforcement is another prime goal of the Act. The 2001 amendments  
3 continue this perspective by explicitly recognizing that  
4 tribunals may extend the principle of comity to foreign support  
5 orders, Sections 104 and 210.

6 2. LONG-ARM JURISDICTION. UIFSA contains a broad provision for  
7 asserting long-arm jurisdiction to provide a tribunal in the  
8 State of residence of the spouse or a child entitled to support  
9 with the maximum possible opportunity to secure personal  
10 jurisdiction over an absent respondent, Section 201. This  
11 converts what otherwise would be a two-state proceeding into a  
12 one-state proceeding. When jurisdiction over a nonresident is  
13 obtained, the tribunal may obtain evidence, provide for  
14 discovery, and elicit testimony through use of the same  
15 "information route" provided for two-state proceedings, Sections  
16 210, 316-318. Amendments in 2001 to the basic long-arm provision,  
17 Section 201, clarified and strengthened the interrelationship  
18 between the assertion of such jurisdiction and the continuing  
19 nature of personal jurisdiction for enforcement and modification  
20 of a support order, Sections 205 and 206.

## 22 **B. Establishing a Support Order**

24 1. FAMILY SUPPORT. The Act may be used only for proceedings  
25 involving the support of a child or spouse of the support  
26 obligor; it does not include enforcement of other duties of  
27 support found in the statutes of a few states, such as requiring  
28 support of an elderly or disabled parent by an adult child,  
29 Sections 101(2),(18).

30 2. LOCAL LAW. UIFSA provides that the procedures and law of the  
31 forum apply, with some significant additions or exceptions:

34 (a) Certain procedures are prescribed for interstate cases even  
35 if they are not consistent with local law, i.e.: the contents of  
36 interstate petitions, Sections 311 and 602; the nondisclosure of  
37 certain sensitive information, Section 312; authority to award  
38 fees and costs including attorney's fees, Section 313;  
39 elimination of certain testimonial immunities, Section 314; and,  
40 limits on the assertion of nonparentage as a defense to support  
41 enforcement, Section 315.

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

46 (c) Special rules for the interstate transmission of evidence and  
47 discovery are added to help place the maximum amount of  
48 information before the deciding tribunal. These procedures are  
49 available in cases in which the tribunal asserts jurisdiction

2 over a nonresident, (Sections 210, 316-318), and may have the  
effect of amending local law in long-arm cases.

4 (d) The choice-of-law rule for the interpretation of a registered  
6 order is that the law of the issuing State governs the underlying  
terms of the controlling support order. One important exception  
8 exists; if the registering and issuing State have different  
statutes of limitation for enforcement, the longer time limit  
applies, Section 604.

10 3. CONTINUING EXCLUSIVE JURISDICTION AND THE ONE-ORDER SYSTEM.  
12 Under URESA and RURESA the majority of support proceedings were  
de novo. Even when an existing order of one State was  
14 "registered" in a second State, the registering State often  
asserted the right to modify the registered order. This meant  
16 that multiple support orders could be in effect in several  
states. As far as is possible, under UIFSA the principle of  
18 continuing, exclusive jurisdiction aims to recognize that only  
one valid support order may be effective at any one time,  
20 Sections 205-207. This principle is carried out in Sections  
203-211.

22 4. PRIVATE ATTORNEYS. UIFSA explicitly authorizes parties to  
24 retain private legal counsel in support proceedings, Section 309,  
as well as to use the services of a state support enforcement  
26 agency, Section 307(a). The Act expressly takes no position on  
whether the support enforcement agency's assistance of a  
28 supported family establishes an attorney-client relationship with  
the applicant, Section 307(c).

30 5. EFFICIENCY. UIFSA streamlines interstate proceedings as  
32 follows:

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

38 (b) Under the old system, the process began by requiring a local  
"initiating tribunal" to make a preliminary (and nonbinding)  
40 determination of a duty to support, and then forwarding the  
documents to a "responding tribunal" for a binding decision.  
42 Under UIFSA an individual party or support enforcement agency in  
the initiating State may file a proceeding directly in a tribunal  
44 in the responding State, Section 301. This innovation by UIFSA  
has proven to be a major contribution to efficient case  
46 management. In the unlikely event that some local action is  
needed, initiation of an interstate case in the initiating State  
48 is expressly made ministerial rather than a matter for  
adjudication or review by a tribunal.

50

2 (c) To facilitate efficient interstate establishment,  
enforcement, and modification of child support orders, forms  
4 sanctioned by the federal Office of Child Support Enforcement are  
available. Although developed in conjunction with the federal  
6 IV-D program, private parties and their attorneys who are engaged  
in an interstate child support case are well advised to use the  
8 appropriate forms for transmission of information to the  
responding State, Section 311(b). The information in those forms  
is declared to be admissible evidence, Section 316(b).

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

14 (e) Tribunals are directed to permit an out-of-state party or  
16 witness to be deposed or to testify by telephone conference,  
Section 316(f).

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

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

26 (h) A registered support order is confirmed and immediately  
enforceable unless the respondent files an objection in a record  
28 within a fixed period of time, almost invariably the 20 days  
suggested originally, Sections 603 and 607.

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

34 **C. Enforcing a Support Order**

36 1. DIRECT ENFORCEMENT. UIFSA provides two direct enforcement  
38 procedures that do not require assistance from a tribunal. First,  
a notice may be sent directly to the obligor's employer in  
40 another State, Section 501, which triggers income withholding by  
that employer without the necessity of a hearing unless the  
42 employee objects. The Act details the procedure to be followed by  
the employer in response to an interstate request for direct  
44 income withholding, Sections 502-506. Additionally, the Act  
provides for direct administrative enforcement by the support  
46 enforcement agency of the obligor's State, Section 507.

48 2. REGISTRATION. Enforcement of a support order of another State  
or nation involving a tribunal of the forum State begins with the  
50 registration of the existing support order in a tribunal of the

2 responding State, Sections 601-604. However, the registered order  
continues to be the order of the issuing State, Sections 605-608.  
4 The role of the responding State is limited to enforcing that  
order except in the very limited circumstances under which  
modification is permitted, *infra*.

#### 6 8 **D. Modifying a Support Order**

10 1. REGISTRATION. The first step for a party (whether obligor or  
obligee) requesting a tribunal of another State to modify an  
12 existing child support order is to follow the identical procedure  
for registration as when enforcement is sought. All modification  
14 requests are subject to strict rules, *infra*, although different  
sequences are allowable: *i.e.*, registration for enforcement and a  
16 later request for modification; or, a request for contemporaneous  
modification and enforcement.

18 2. MODIFICATION STATUTORILY RESTRICTED. Under UIFSA, the only  
tribunal that can modify a support order is one having  
20 continuing, exclusive jurisdiction over the support issue. As an  
initial matter, this is the tribunal that first acquires personal  
22 and subject matter jurisdiction over the parties and the support  
obligation. If modification of the order by the issuing tribunal  
24 is no longer appropriate, another tribunal may become vested with  
the continuing, exclusive jurisdiction necessary to modify the  
26 order. Primarily this occurs when neither the individual parties  
nor the child reside in the issuing State, or when the parties  
28 agree in a record that another tribunal may assume modification  
jurisdiction. Only then may another tribunal with personal  
30 jurisdiction over the parties assume continuing, exclusive  
jurisdiction and have jurisdiction to modify the order, Sections  
32 205, 206, 603(c), 609-612. Further, except for modification by  
agreement, Section 205 and 207, or when the parties have all  
34 moved to the same new State, Section 613, the party petitioning  
for modification must be a nonresident of the responding State  
36 and must submit himself or herself to the forum State, which must  
have personal jurisdiction over the respondent, Section 611. The  
38 vast majority of the time this is the State in which the  
respondent resides. A colloquial short-hand summary of the  
40 principle is that ordinarily the movant for modification of a  
child support order "must play an away game."

42  
44 A 2001 amendment adds that even if the parties and child have  
moved from the issuing State they may agree that the tribunal  
46 that issued the controlling order will continue to exercise its  
continuing, exclusive jurisdiction, Section 205. This recognizes  
48 the fact that it may be preferable for the parties to return to a  
tribunal familiar with the issues rather than to be required to  
50 fully inform another tribunal of all the facts and issues that  
have been previously litigated. This exception may be



2 particularly appropriate if both child-support and  
3 spousal-support are involved in the same case; under this Act,  
4 jurisdiction to modify the spousal support order is exclusively  
5 reserved to the issuing tribunal, regardless of where the parties  
6 reside.

7 Section 613 makes an obvious exception to the nonresident  
8 petitioner rule: if the child no longer resides in the issuing  
9 State and the parties have moved from the issuing State and by  
10 coincidence or design currently reside in the same State, that  
11 State has jurisdiction to modify the existing order and assume  
12 continuing, exclusive jurisdiction over the child support order.

13 Section 614 places the duty on the party obtaining a modification  
14 to provide notice of the new order to all interested tribunals,  
15 and grants the tribunal authority to sanction a party who fails  
16 to perform this duty of notice.

17 To facilitate modification across international borders, another  
18 exception to the nonresident petitioner rule was added in 1996  
19 for child support orders issued by foreign jurisdictions. The  
20 amendments of 2001 recodified this procedure in a wholly new  
21 provision. Section 615 expands on the right of a tribunal of one  
22 of the several states to modify a child support order of a  
23 foreign country or political subdivision if that jurisdiction is  
24 prevented from modifying its order under its local law and the  
25 modification would be consistent with standards of due process.

26  
27 **Sec. 1. 19-A MRSA §2802, sub-§7,** as enacted by PL 1995, c.  
28 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

29  
30 **7. Initiating state.** "Initiating state" means a state ~~in~~  
31 from which a proceeding is forwarded or in which a proceeding is  
32 filed for forwarding to a responding state under this chapter or  
33 a law or procedure substantially similar to this chapter, ~~the~~  
34 ~~Uniform-Reciprocal-Enforcement-of-Support-Act-or-the-Revised~~  
35 ~~Uniform-Reciprocal-Enforcement-of-Support-Act-is-filed-for~~  
36 ~~forwarding-to-a-responding-state.~~

37  
38 **Sec. 2. 19-A MRSA §2802, sub-§§13-A and 13-B** are enacted to  
39 read:

40  
41 **13-A. Person.** "Person" means an individual; corporation;  
42 business trust; estate; trust; partnership; limited liability  
43 company; association; joint venture; government; governmental  
44 subdivision, agency or instrumentality; public corporation; or  
45 any other legal or commercial entity.

2 13-B. Record. "Record" means information that is inscribed  
3 on a tangible medium or that is stored in an electronic or other  
4 medium and is retrievable in perceivable form.

6 **Sec. 3. 19-A MRSA §2802, sub-§16,** as enacted by PL 1995, c.  
694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

8 **16. Responding state.** "Responding state" means a state to  
9 in which a proceeding is filed or to which a proceeding is  
10 forwarded for filing from an initiating state under this chapter  
11 or a law or procedure substantially similar to this chapter, ~~the~~  
12 ~~Uniform-Reciprocal-Enforcement-of-Support-Act-or-the-Revised~~  
13 ~~Uniform-Reciprocal-Enforcement-of-Support-Act.~~

14 **Sec. 4. 19-A MRSA §2802, sub-§19,** as amended by PL 1997, c.  
16 669, §13, is further amended to read:

18 **19. State.** "State" means a state of the United States, the  
19 District of Columbia, ~~the Commonwealth of~~ Puerto Rico, the United  
20 States Virgin Islands or any territory or insular possession  
21 subject to the jurisdiction of the United States. The term  
22 "state" includes ~~an Indian tribe and includes a foreign~~  
23 ~~jurisdiction that has established procedures for issuance and~~  
24 ~~enforcement of support orders that are substantially similar to~~  
25 ~~the procedures under this chapter, the Uniform-Reciprocal~~  
26 ~~Enforcement-of-Support-Act, or the Revised Uniform-Reciprocal~~  
27 ~~Enforcement-of-Support-Act.:~~

28 A. An Indian tribe; and

30 B. A foreign country or political subdivision that:

32 (1) Has been declared to be a foreign reciprocating  
34 country or political subdivision under federal law;

36 (2) Has established a reciprocal arrangement for child  
38 support with this State as provided in section 3008-A;  
or

40 (3) Has enacted a law or established procedures for  
42 issuance and enforcement of support orders that are  
43 substantially similar to the procedures under this  
44 chapter.

46 **Sec. 5. 19-A MRSA §2802, sub-§21, ¶¶C and D,** as enacted by PL  
1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to  
48 read:

50 C. Determination of parentage; or

2 D. The location of obligors or their assets, or

4 **Sec. 6. 19-A MRSA §2802, sub-§21, ¶E** is enacted to read:

6 E. Determination of the controlling child support order.

8 **Sec. 7. 19-A MRSA §2802, sub-§22**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

10 **22. Support order.** "Support order" means a judgment, decree ~~or~~, order or directive, whether temporary, final or subject to modification, issued by a tribunal for the benefit of a child, a spouse or a former spouse, that provides for monetary support, health care, arrearages or reimbursement. "Support order" may include related costs and fees, interest, income withholding, attorney's fees and other relief.

18 **Uniform Comment**

20 (This is Section 102 of the Uniform Act.)

22 The terms defined in UIFSA have undergone relatively little amendment since its original promulgation in 1992. Two new terms were added in 2001--"person" and "record," found in Subsections (14) and (15), respectively. Other definitions have been amended slightly over the years, but none as significantly as the 2001 amendments to the definition of "State" in Subsection (21).

28 Many crucial definitions continue to be left to local law. For example, the definitions of "child" and "child-support order" provided by Subsections (1) and (2) refer to "the age of majority" without further elaboration. The exact age at which a child becomes an adult for different purposes is a matter for the law of each State, as is the age at which a parent's duty to furnish child support terminates. Similarly, a wide variety of other terms of art are implicitly left to state law. For example, Subsection (23) refers inter alia to "health care, arrearages, or reimbursement ." All of these terms are subject to individualized definitions on a state-by-state basis.

40 Subsection (3) defines "duty of support" to mean the legal obligation to provide support, whether or not that duty has been the subject of an order by a tribunal. This broad definition includes both prospective and retrospective obligations to the extent they are imposed by the relevant state law.

46 For the limited purpose of resolving certain conflicts in the exercise of jurisdiction, Subsection (4) borrows the concept of the "home State of a child" from the UNIFORM CHILD CUSTODY JURISDICTION ACT (UCCJA) and its successor, the UNIFORM CHILD

2 CUSTODY JURISDICTION AND ENFORCEMENT ACT (UCCJEA), versions of  
which have been adopted in all 50 states, and incorporated into  
4 the federal PARENTAL KIDNAPPING PREVENTION ACT, 42 U.S.C. Section  
1738A (PKPA).

6 Subsection (6) is written broadly to include an "income  
withholding order" based on "other legal process," as  
8 distinguished from "by order of a tribunal." Some states issue  
such orders administratively, which are entitled to enforcement  
10 notwithstanding the fact that no judicial or quasi-judicial  
process is involved. Federal law requires that, in order to be  
12 eligible for federal subsidy monies, each State must provide for  
income withholding "without the necessity of any application  
14 therefor, or for any further action by the court or other entity  
which issued such order ." 42 U.S.C. Section 666(b)(2). States  
16 have complied with this requirement in a variety of ways.

18 From its beginning UIFSA has permitted direct filing of an  
interstate proceeding in a responding State without an initial  
20 filing in an initiating tribunal. This has become the standard  
operating procedure for child support enforcement agencies. Thus,  
22 a petitioner in one State may seek to establish, enforce, or  
modify a support order in a second State by either filing in the  
24 responding state's tribunal or by directly seeking the assistance  
of the support enforcement agency in the second State. Although  
26 Subsections (7), (8), (18) and (19) supply definitions for  
"initiating and responding State" and "initiating and responding  
28 tribunal," the procedure of "initiation and response" established  
by the predecessor acts of URESA and RURESAs has become an  
30 anachronism since the universal enactment of UIFSA.

32 Until the 2001 amendments, the relationship between UIFSA and the  
prior uniform acts was captured in the reference to URESA and  
34 RURESAs as "substantially similar" acts. This phrasing in  
Subsections (7), (18) and (21), and repeated several times  
36 throughout the Act, has been deleted everywhere it appears to  
avoid confusion that might arise from appearing to incorporate  
38 statutes that have been replaced. This is not to suggest in any  
way that support orders issued under URESA or RURESAs are not  
40 fully enforceable under UIFSA. Until valid orders issued under  
those laws expire of their own terms or are replaced by new UIFSA  
42 orders, the support orders themselves will continue to have  
vitality, see Sections 201-211, *infra*. In short, UIFSA is  
44 specifically designed to function with the earlier acts without  
conflict. Support orders issued under one of the earlier acts  
46 should be honored and enforced in every State. But, despite their  
common roots, neither URESA nor RURESAs can be said to be  
48 "substantially similar" with regard to the continuing, exclusive  
jurisdiction/one-order system established in UIFSA. States are  
50 directed to accord full enforcement remedies to support orders

2 issued under the prior acts, but they must apply UIFSA restraint  
3 regarding modification. In situations involving multiple orders  
4 created under the former system, UIFSA mandates the application  
5 of its one-order rules to determine the single order that is  
6 entitled to prospective enforcement, see Section 207, infra.

7  
8 The term "obligee" in Subsection (12) is defined in a broad  
9 manner, which is consistent with common usage. In instances of  
10 spousal support, the person owed the duty of support and the  
11 person receiving the payments are almost always the same. Use of  
12 the term is more complicated in the context of child support. The  
13 child is the person to whom the duty of support is owed, and  
14 therefore can be viewed as the ultimate obligee. However,  
15 "obligee" usually refers to the individual receiving the  
16 payments. While this is most commonly the custodial parent or  
17 other legal custodian, the "obligee" may be a support enforcement  
18 agency that has been assigned the right to receive support  
19 payments in order to recoup Temporary Assistance for Needy  
20 Families (TANF), 42 U.S.C. Section 601 et seq., formerly known as  
21 Aid to Families with Dependent Children (AFDC). Even in the  
22 absence of such an assignment, a State may have an independent  
23 statutory claim for reimbursement for general assistance provided  
24 to a spouse, a former spouse, or a child of an obligor. The Act  
25 also uses "obligee" to identify an individual who is asserting a  
26 claim for support, not just for a person whose right to support  
27 is unquestioned, presumed, or has been established in a legal  
28 proceeding.

29  
30 Subsection (13) provides the correlative definition of an  
31 "obligor," which includes an individual who is alleged to owe a  
32 duty of support as well as a person whose obligation has  
33 previously been determined.

34 The terms "obligor" and "obligee" inherently contain the legal  
35 obligation to pay or receive support, and both terms also  
36 implicitly refer to the individuals with a duty to support a  
37 child. The one-order system of UIFSA can succeed only if the  
38 respective obligations of support are adjusted as the physical  
39 possession of a child changes between parents or involves a third  
40 party caretaker. This must be accomplished in the context of  
41 modification, and not by the creation of multiple orders  
42 attempting to reflect each changing custody scenario. Obviously  
43 this issue is of concern not only to interstate child-support  
44 orders, but applies to intrastate orders as well.

45  
46 The definition of "record" in new Subsection (14) conforms UIFSA  
47 to the Conference standard for legal documentation as established  
48 in the UNIFORM ELECTRONIC TRANSACTIONS ACT Section 102(13)  
49 [hereafter UETA]. Henceforth, the phrase "in a record" will  
50 replace the terminology "in writing" as the appropriate manner to

2 recognize that electronic transmissions and signatures are  
increasingly appropriate substitutes for more traditional  
documentation.

4  
6 The definitions of "responding State" and "responding tribunal"  
in Subsections (18) and (19) accommodate the direct filing of a  
petition under UIFSA without the intervention of an initiating  
tribunal. Both definitions acknowledge the possibility that there  
8 may be a responding State and a responding tribunal in a  
10 situation where there is no initiating State or initiating  
tribunal.

12  
14 Subsection (21) no longer requires reciprocity between the  
several states, formerly a cornerstone of RURESA and URESA.  
Public policy favoring enforcement of child support orders is  
16 sufficiently strong to warrant waiving any quid pro quo  
requirement between U.S. jurisdictions. This was true even before  
18 the issue was mooted by the enactment of UIFSA by all states by  
1998.

20  
22 The 1996 amendment to Subsection (21) clarified the position that  
UIFSA, like RURESA before it, does not waive reciprocity in the  
international context. A major amendment to the text of  
24 Subsection (21) was made in 2001 to make clear that a foreign  
country or political subdivision is defined as a "State" under  
26 the Act in three situations. First, a declaration by the U.S.  
State Department that a foreign jurisdiction is a reciprocating  
country or political subdivision is controlling for all states.  
28 Second, in the absence of such a declaration, each of the several  
states can make an arrangement with a foreign country or  
30 political subdivision for reciprocal enforcement of child  
support. Finally, a finding may be made that a foreign  
32 jurisdiction has a law or procedure substantially similar to  
UIFSA. That is, a tribunal may consider whether the foreign  
34 jurisdiction also has laws and procedures that allow for a U.S.  
order to be recognized in that foreign jurisdiction independent  
36 of a formal reciprocity agreement. The inclusion of foreign  
political subdivisions is necessary because in some countries the  
38 central government will not or cannot bind the subdivisions. For  
example, reciprocal arrangements with Canada are made on the  
40 province level and not with the Canadian federal government.

42  
44 Although the vast bulk of child support establishment,  
enforcement, and modification in the United States is performed  
by the state IV-D agencies, see Part IV-D, SOCIAL SECURITY ACT,  
46 42 U.S.C. Section 651 et seq., Subsection (22) defines the term  
"support enforcement agency" to include not only those entities,  
48 but also any other state or local governmental entities charged  
with establishing or enforcing support. The 2001 amendment simply  
50 adds another key task to the list of powers, that is,

2 determination of the controlling order in multiple order  
3 situations.

4 In 1992 Subsection (24) introduced a completely new term,  
5 "tribunal," which replaced the term "court" used in RURESA. With  
6 the advent of federally-funded IV-D programs, a number of states  
7 have delegated various aspects of child support establishment and  
8 enforcement to quasi-judicial bodies and administrative agencies.  
9 The term "tribunal" accounts for the breadth of state variations  
10 in dealing with support orders. By 2001 the usage has become the  
11 standard in the child support enforcement community, although  
12 private practitioners who only rarely are involved in such cases  
13 may still find the term unfamiliar.

14 **Sec. 8. 19-A MRSA §2803**, as enacted by PL 1995, c. 694, Pt.  
15 B, §2 and affected by Pt. E, §2, is repealed and the following  
16 enacted in its place:

17 **§2803. Remedies cumulative**

18 **1. Remedies cumulative.** Remedies provided by this chapter  
19 are cumulative and do not affect the availability of remedies  
20 under other law, including the recognition of a support order of  
21 a foreign country or political subdivision on the basis of comity.

22 **2. Not exclusive method; jurisdiction.** This chapter does  
23 not:

24 **A. Provide the exclusive method of establishing or**  
25 **enforcing a support order under the laws of this State; or**

26 **B. Grant a tribunal of this State jurisdiction to render**  
27 **judgment or issue an order relating to parental rights and**  
28 **responsibilities other than child support in a proceeding**  
29 **under this chapter.**

30 **Uniform Comment**

31 (This is Section 104 of the Uniform Act.)

32 The existence of procedures for interstate establishment,  
33 enforcement, or modification of support or a determination of  
34 parentage in UIFSA does not preclude the application of the  
35 general law of the forum. Even if the parents live in different  
36 states, for example, a petitioner may decide to file an original  
37 proceeding for child support (and most likely for other relief as  
38 well) directly in the State of residence of the respondent and  
39 proceed under that forum's generally applicable support law. In  
40 so doing, the petitioner thereby submits to the personal  
41 jurisdiction of the forum and foregoes reliance on UIFSA. Once a  
42

2 child support order has been issued, this option is no longer  
4 available to interstate parties. Under UIFSA, a State may not  
6 permit a party to proceed to obtain a second support order;  
rather, in further litigation the tribunal must apply the Act's  
provisions for enforcement of an existing order and limit  
modification to the strict standards of UIFSA.

8 The 2001 addition to Subsection (a) specifically recognizes the  
10 doctrine of comity as a legitimate function of state law that on  
12 a proper showing provides for the recognition of a foreign  
14 support order, see Mississippi Dept. Human Svcs. v. Shelnut, 772  
16 So.2d 1041 (Miss. 2000). Although the determination by the U.S.  
18 State Department that a foreign nation is a reciprocating country  
is binding on all states, recognition of foreign support orders  
through comity is dependent on the law of each UIFSA State. The  
reference to "remedies under other law" is intended to recognize  
the principle of comity as developed in the forum State by  
statutory or common law, rather than to create a substantive  
right independent of that law.

20 New Subsection (b)(1) gives notice that UIFSA is not the only  
22 means for establishing or enforcing a support order with an  
24 interstate aspect. Examples abound. A potential child-support  
26 obligee may voluntarily submit to the jurisdiction of another  
28 State to seek the full range of desired relief under the law of  
30 that State using intrastate procedures, rather than resorting to  
32 the interstate procedure provided by UIFSA. A nonresident married  
34 parent may choose to file a proceeding in the forum State for  
36 dissolution of the marriage, including property division and  
38 spousal support, and in conjunction seek an order regarding child  
custody and visitation and child support. A parent may submit to  
the jurisdiction of another State for a determination of  
parentage and child support. A support order resulting from each  
of these scenarios implicates UIFSA. Invariably the issuing  
tribunal will have continuing, exclusive jurisdiction over its  
controlling child or spousal support orders as provided by  
Sections 205, 207, 211, infra, with all of the attendant  
application of the Act to those orders.

40 On the other hand, Subsection (b)(2) states what is clear under  
42 U.S. Supreme Court decisions; the bases of jurisdiction for child  
44 custody and visitation orders and the jurisdiction for  
46 child-support orders run on separate tracks, compare May v.  
48 Anderson, 345 U.S. 528 (1953) with Kulko v. Superior Court, 436  
U.S. 84 (1978). If the child-support order is sought under the  
authority of UIFSA, the most important aspect of this rule is  
that a child-support obligee utilizing the provisions of UIFSA to  
establish child support across State lines submits to  
jurisdiction for child support only, and does not submit to the



jurisdiction of the responding State with regard to child custody  
or visitation.

**Sec. 9. 19-A MRSA c. 67, sub-c. 2,** as amended, is repealed.

**Sec. 10. 19-A MRSA c. 67, sub-c. 2-A** is enacted to read:

**SUBCHAPTER 2-A**

**JURISDICTION**

**§2961. Bases for jurisdiction over nonresident**

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

A. The individual is personally served with notice within this State;

B. 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;

C. The individual resided with the child in this State;

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

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

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

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

**2. Use of bases to establish personal jurisdiction.** The bases of personal jurisdiction set forth in subsection 1 or in any other law of this State may not be used to acquire personal jurisdiction for a tribunal of the State to modify a child support order of another state unless the requirements of section 3253 or 3257 are met.

**Uniform Comment**

2

(This is Section 201 of the Uniform Act.)

4

6 Sections 201 and 202 assert what is commonly described as  
of establishing a support order or determining parentage.  
8 Inclusion of this long-arm provision in this interstate Act is  
justified because residents of two separate states are involved  
10 in the litigation, both of whom are subject to the personal  
jurisdiction of the forum. Thus, the case has a clear interstate  
12 aspect, despite the fact that only the law of the forum State is  
applicable. Moreover, this is sufficient to invoke additional  
14 UIFSA provisions in an otherwise intrastate proceeding. See  
Sections 202, 316, and 318, *infra*. The intent is to insure that  
16 every enacting State has a long-arm statute that is as broad as  
constitutionally permitted. In situations in which the long-arm  
18 statute can be satisfied, the petitioner (either the obligor or  
the obligee) has two options: (1) utilize the long-arm statute to  
20 obtain personal jurisdiction over the respondent; or (2) initiate  
a two-state proceeding under the succeeding provisions of UIFSA  
22 seeking to establish a support order in the respondent's State of  
residence. Of course, a third option is available that does not  
24 implicate UIFSA; a petitioner may file a proceeding in the  
respondent's State of residence (perhaps to settle all issues  
26 between the parties in a single proceeding).

28 This long-arm statute applies to an order for spousal support as  
well as an order for child support. However, almost all of the  
30 specific provisions relate to child support orders or  
determinations of parentage. This derives from the fact that the  
32 focus of UIFSA is primarily on child support. Only Subsections  
(1), (2) and (8) are applicable to an action for spousal support  
34 asserting long-arm jurisdiction over a nonresident. The first two  
subsections are wholly noncontroversial insofar as an assertion  
36 of personal jurisdiction is concerned. Moreover, assertion of  
personal jurisdiction under Subsections (1), (2), or (8) will  
38 doubtless yield jurisdiction over all matters to be decided  
between the spouses, including division of property on divorce.  
40 Thus, the most obvious possible basis for asserting long-arm  
jurisdiction over spousal support, *i.e.*, "last matrimonial  
42 domicile," is not included in Section 201 to avoid the potential  
problem of another instance of bifurcated jurisdiction. This  
44 restraint avoids a situation in which UIFSA grants long-arm  
jurisdiction for a spousal support order when the forum State has  
46 no correlative statute for property division in divorce.

48 Under RURESA, multiple support orders affecting the same parties  
were commonplace. UIFSA creates a structure designed to provide  
50 for only one support order at a time. The new one-order regime is

2 facilitated and combined with a broad assertion of personal  
3 jurisdiction under this long-arm provision. The frequency of a  
4 two-state procedure involving the participation of tribunals in  
5 both states should be substantially reduced by the introduction  
6 of this long-arm statute.

7 Subsections (1) through (8) are derived from a variety of  
8 sources, including the UNIFORM PARENTAGE ACT (1973) Section 8,  
9 TEXAS FAMILY CODE Section 102.011, and NEW YORK FAMILY COURT ACT  
10 Section 154.

11 Subsection (1) codifies the holding of Burnham v. Superior Court,  
12 495 U.S. 604 (1990), which reaffirms the constitutional validity  
13 of asserting personal jurisdiction based on personal service  
14 within a State.

15 Subsection (2) expresses the principle that a nonresident party  
16 concedes personal jurisdiction by seeking affirmative relief or  
17 by submitting to the jurisdiction by answering or entering an  
18 appearance. However, the power to assert jurisdiction over a  
19 support issue under the Act does not extend the tribunal's  
20 jurisdiction to other matters.  
21

22 Subsections (3) through (6) identify specific fact situations  
23 justifying the assertion of long-arm jurisdiction over a  
24 nonresident. Each provides an appropriate affiliating nexus for  
25 such an assertion, when judged on a case-by-case basis with an  
26 eye on procedural and substantive due process. Further, each  
27 subsection does contain a possibility that an overly literal  
28 construction of the terms of the statute will overreach due  
29 process. For example, Subsection (3) provides that long-arm  
30 jurisdiction to establish a support order may be asserted if "the  
31 individual resided with the child in this State." The typical  
32 scenario contemplated by the statute is that the parties lived as  
33 a family unit in the forum State, separated, and one of the  
34 parents subsequently moved to another State while the other  
35 parent and the child continued to reside in the forum. No time  
36 frame is stated for filing a proceeding; this is based on the  
37 fact that the absent parent has a support obligation that extends  
38 for at least the minority of the child (and often longer in many  
39 states).  
40

41 On the other hand, suppose that the two parents and their child  
42 lived in State A for many years, and then decided to move the  
43 family to State B to seek better employment opportunities. Those  
44 opportunities did not materialize and, after several weeks or a  
45 few months of frustration with the situation, one of the parents  
46 returned with the child to State A. Under these facts a tribunal  
47 of State A may conclude it has long-arm jurisdiction to establish  
48 the support obligation of the absent parent. But, suppose that  
49  
50

2 the family's sojourn in State B lasted for many years, and then  
one parent unilaterally decides to return to State A. It is a  
4 reasonable expectation that all tribunals will conclude that  
assertion of personal jurisdiction over the absent parent  
6 immediately after the return based on Subsection (3) would offend  
due process. The interstate provisions of UIFSA are available to  
8 the returning parent to establish child support. Note that State  
B will have long-arm jurisdiction to establish support under  
10 Section 201. See also Section 204, *infra*, for the resolution of  
simultaneous proceedings provided by the Act.

12 The factual situations catalogued in the first seven subsections  
are appropriate and constitutionally acceptable grounds upon  
14 which to exercise personal jurisdiction over an individual.  
Subsection (7) is bracketed because not all states maintain  
16 putative father registries.

18 Finally, Subsection (8) tracks the broad, catch-all provisions  
found in many state statutes, including California, Civ. P. Code  
20 Section 410.10 (1973); New York, *supra*; and Texas, *supra*. Note,  
however, that the California provision, standing alone, was found  
22 to be inadequate to sustain a child support order under the facts  
presented in Kulko v. Superior Court, 436 U.S. 84 (1978).

24  
When read together, the 2001 amendments to Subsection(a) deleting  
26 the term "modify" and the addition of new Subsection (b) are  
designed to preclude a tribunal of the forum from ignoring the  
28 restrictions on modification of child-support orders established  
by UIFSA. Some courts broadly construed the former reference to  
30 "modify" to justify ignoring the requirement of Section 611 that,  
absent agreement of the parties, a petitioner for modification of  
32 a child-support order of an issuing State when all parties have  
left that State must be a nonresident of the forum. The 2001  
34 amendments make clear that a tribunal may not apply the long-arm  
provisions of Subsection (a), or any other law of the forum, and  
36 thereby assert that personal jurisdiction over both individual  
parties to a support order of another State is sufficient to  
38 modify that order. The limitations on the exercise of subject  
matter jurisdiction provided by Sections 611 and 615 must be  
40 observed irrespective of the existence of personal jurisdiction  
over the parties. Long-arm personal jurisdiction over the  
42 respondent, standing alone, is not sufficient to grant subject  
matter jurisdiction over a proposed modification to a tribunal of  
44 the State of residence of the petitioner, see LeTellier v.  
LeTellier, 40 S.W.3d 490, 90 A.L.R.5th 707 (Tenn. 2001),  
46 reversing 1999 WL 732487 (Tenn. App. 1999).

48 Subsection (b) is intended to cement the principle that  
modification of an existing order is not subject solely to the  
50 usual rules of personal jurisdiction over both parties. Even if a

2 tribunal has personal jurisdiction over both parties, absent  
3 agreement of the parties it does not have subject matter  
4 jurisdiction to modify a support order of another State if one of  
5 the parties or the child reside in the issuing State at the time  
6 the modification proceeding is filed, see Section 207, infra.  
7 Even if everyone has moved away from the issuing State, a  
8 tribunal having personal jurisdiction over both parties may not  
9 modify the order if the petitioner is a resident of the tribunal  
10 forum--unless both parties are residents of the forum, see  
11 Sections 611 and 613, infra. Absent an agreement of the parties,  
12 in all other cases the movant must be a nonresident, and the  
13 tribunal must have personal jurisdiction over the respondent.  
14 Almost invariably the respondent will be a resident of the forum.

15  
16 On rare occasion, however, the required personal jurisdiction  
17 over the respondent may be available only by virtue of the  
18 long-arm provisions of this section, which explains why Sections  
19 201, 205, 207, 611 and 615 must read in conjunction with one  
20 another. An example of such a situation is as follows: the  
21 controlling child-support order was issued by a tribunal in State  
22 A, which of course had personal jurisdiction over the parties  
23 when it issued its order; the obligee and child presently reside  
24 in State B (a State the obligor has never even visited); the  
25 obligor presently is employed and resides in Nation X, although  
26 the obligor's "home base" in the United States can be identified  
27 as State C where the headquarters of the obligor's employer is  
28 located; and, finally, other than Nation X, the only states that  
29 can claim a nexus with the obligor sufficient to assert personal  
30 jurisdiction over him are State C and perhaps State A. Under this  
31 fact situation, it is necessary to invoke one of the long-arm  
32 bases of Section 201 to assert the personal jurisdiction over the  
33 obligor necessary to modify the order. Note that the long-arm  
34 statute may not be asserted in State B where the movant resides  
35 due to the restriction provided in Section 611, even if a basis  
36 exists for assertion of long-arm jurisdiction in that State. The  
37 employment connection in State C is likely to permit a tribunal  
38 in that State to assert jurisdiction to modify the support order  
39 based on the catch-all provision, Subsection (a)(8). Further, a  
40 tribunal in State A might also find that it has retained  
41 jurisdiction to modify the order under Subsection (a)(8)  
42 (remember both parties are nonresidents) given the absence or  
43 paucity of other U.S. jurisdictions with a nexus to the obligor,  
44 see Phillips v. Phillips, 826 S.W.2d 746 (Tex. App. 1992). Note,  
45 however, that such an action by the original issuing State must  
46 be exercised with extreme restraint or the restriction on  
47 modification in Section 611 will become a nullity. Concern that  
48 long-arm jurisdiction will be asserted in less compelling  
49 circumstances than presented in this hypothetical situation is  
50 not substantiated by experience with Section 201 in establishment  
cases filed since the enactment of UIFSA. In fact, overreaching

2 assertions of long-arm jurisdiction have been dealt with  
3 satisfactorily on a case-by-case basis using due process  
4 constitutional or forum non conveniens grounds. Rains v. Dept. of  
5 Social & Health Serv., 989 P.2d 558 (Wash. App. 1998); Phillips  
6 v. Fallen, 6 S.W.3d 862 (Mo.1999), reversing 1999 WL 50159 (Mo.  
7 App. W.D.,1999); Abu-Dalbouh v. Abu-Dalbouh, 547 N.W.2d 700  
8 (Minn. App.1996).

9  
10 **§2962. Duration of personal jurisdiction**

11 Personal jurisdiction acquired by a tribunal of this State  
12 in a proceeding under this chapter or other law of this State  
13 relating to a support order continues as long as a tribunal of  
14 this State has continuing, exclusive jurisdiction to modify its  
15 order or continuing jurisdiction to enforce its order as provided  
16 by sections 2965, 2966 and 2971.

17 **Uniform Comment**

18  
19 (This is Section 202 of the Uniform Act.)

20  
21 This section can be said to state a legal truism, albeit a useful  
22 one. That is, once a tribunal issues a support order binding on  
23 the parties, which must be based on personal jurisdiction by  
24 virtue of Kulko v. Superior Court, 436 U.S. 84 (1978) and  
25 Vanderbilt v. Vanderbilt, 354 U.S. 416 (1957), jurisdiction in  
26 personam continues absent the statutorily specified reasons for  
27 its termination. The rule established by UIFSA is that the  
28 personal jurisdiction necessary to sustain enforcement or  
29 modification of an order of child support or spousal support  
30 persists as long as the order is in force and effect, even as to  
31 arrears, see Sections 205-207, 211, infra. This is true  
32 irrespective of the context in which the support order arose,  
33 e.g., divorce, UIFSA support establishment, parentage  
34 establishment, modification of prior controlling order, etc.  
35 Insofar as a child-support order is concerned, depending on  
36 specific factual circumstances a distinction is made between  
37 continuing, exclusive jurisdiction to modify an order and  
38 continuing jurisdiction to enforce an order, see Sections 205 and  
39 206, infra. Authority to modify a spousal support order is  
40 permanently reserved to the issuing tribunal, Section 211, infra.

41  
42 **§2963. Initiating and responding tribunal of this State**

43 Under this chapter, a tribunal of this State may serve as an  
44 initiating tribunal to forward proceedings to another state and  
45 as a responding tribunal for proceedings initiated in another  
46 state.

47  
48  
49 **Uniform Comment**

2 (This is Section 203 of the Uniform Act.)

4 This section identifies the various roles a tribunal of the forum  
6 may serve; as appropriate, it may act as either an initiating or  
8 a responding tribunal. Under UIFSA a tribunal may serve as a  
10 responding tribunal even when there is no initiating tribunal in  
12 another State. This accommodates the direct filing of a  
14 proceeding in a responding tribunal by a nonresident.

16 **§2964. Simultaneous proceedings**

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

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

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

40 **C. When relevant, this State is the home state of the child.**

42 **2. Jurisdiction may not be exercised when filed in another  
44 state.** A tribunal of this State may not exercise jurisdiction to  
46 establish a support order when the petition or comparable  
48 pleading is filed before a petition or comparable pleading is  
filed in another state if:

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

**B. The contesting party timely challenges the exercise of  
jurisdiction in this State; and**

**C. When relevant, the other state is the home state of the  
child.**

**Uniform Comment**

(This is Section 204 of the Uniform Act.)

2 Under the one-order system established by UIFSA, it is necessary  
to provide a new procedure to eliminate the multiple orders so  
4 common under RURESA and URESA. This requires cooperation between,  
and deference by, sister-state tribunals in order to avoid  
6 issuance of competing support orders. To this end, tribunals are  
expected to take an active role in seeking out information about  
support proceedings in other States concerning the same child.  
8 Depending on the circumstances, one or the other of two tribunals  
considering the same support obligation should decide to defer to  
10 the other. In 1992 UIFSA took a significant departure from the  
approach adopted by the UCCJA ("first filing"), by choosing the  
12 "home State of the child" as the primary method for resolving  
competing jurisdictional disputes, thereby adopting the choice of  
14 the federal PARENTAL KIDNAPPING PREVENTION ACT, 28 U.S.C. 1238A  
Section (C). Given the pre-emptive nature of the PKPA, and the  
16 possibility that custody and support will both be involved in  
some cases, the PKPA/UIFSA choice for resolving disputes between  
18 competing jurisdictional assertions was followed in 1997 by the  
decision of the Conference to replace the UCCJA with the UCCJEA.  
20 If the child has no home State, however, "first filing" will  
continue to control.

22 **§2965. Continuing, exclusive jurisdiction to modify child**  
24 **support order**

26 **1. Tribunal has continuing, exclusive jurisdiction.** A  
tribunal of this State that has issued a support order consistent  
28 with the laws of this State has and shall exercise continuing,  
exclusive jurisdiction to modify its child support order if the  
30 order is the controlling order and:

32 **A. At the time of the filing of a request for modification**  
this State is the residence of the obligor, the individual  
34 obligee or the child for whose benefit the support order is  
issued; or

36 **B. Even if this State is not the residence of the obligor,**  
the individual obligee or the child for whose benefit the  
38 support order is issued, the parties consent in a record or  
40 in open court that the tribunal of this State may continue  
to exercise jurisdiction to modify its order.

42 **2. Tribunal may not exercise continuing, exclusive**  
44 **jurisdiction.** A tribunal of this State that has issued a child  
support order consistent with the laws of this State may not  
46 exercise its continuing, exclusive jurisdiction to modify the  
order if:

48 **A. All of the parties who are individuals file consent in a**  
50 **record with the tribunal of this State that a tribunal of**



2 another state that has jurisdiction over at least one of the  
3 parties who is an individual or that is located in the state  
4 of residence of the child may modify the order and assume  
5 continuing, exclusive jurisdiction; or

6 B. The tribunal's order is not the controlling order.

8 **3. Recognition of jurisdiction of another state's**  
9 **tribunal.** If a tribunal of another state that has issued a child  
10 support order pursuant to the Uniform Interstate Family Support  
11 Act or a law substantially similar to this chapter that modifies  
12 a child support order of a tribunal of this State, tribunals of  
13 this State shall recognize the continuing, exclusive jurisdiction  
14 of the tribunal of the other state.

16 **4. Initiating tribunal to request modification.** A tribunal  
17 of this State that lacks continuing, exclusive jurisdiction to  
18 modify a child support order may serve as an initiating tribunal  
19 to request a tribunal of another state to modify a support order  
20 issued in that state.

22 **5. Temporary support order.** A temporary support order  
23 issued ex parte or pending resolution of a jurisdictional  
24 conflict does not create continuing, exclusive jurisdiction in  
25 the issuing tribunal.

#### 26 **Uniform Comment**

28 (This is Section 205 of the Uniform Act.)

30 This section is perhaps the most crucial provision in UIFSA.  
31 Drawing on the precedent of the federal PARENTAL KIDNAPPING  
32 PREVENTION ACT, 28 U.S.C. Section 1738A, the issuing tribunal  
33 retains continuing, exclusive jurisdiction over a child support  
34 order, except in very narrowly defined circumstances. First  
35 introduced by UIFSA in 1992, this principle is understood and  
36 widely accepted in all jurisdictions. "CEJ," as it is known in  
37 the child-support enforcement world, is fundamental to the  
38 one-child-support-order-at-a-time principle of UIFSA. At first  
39 glance this section appears to have been significantly rewritten;  
40 certainly minor adjustments have been made to the substantive  
41 rules established. But, with the exception of the addition of and  
42 entirely new Subsection (a)(2), the sole intent and effect of the  
43 2001 amendments is to reorganize the statutory language for  
44 greater clarity. The basic concept that the tribunal issuing a  
45 support order retains continuing, exclusive jurisdiction to  
46 modify that order remains the cornerstone of the Act.

48 As long as one of the individual parties or the child continues  
49 to reside in the issuing State, and as long as the parties do not  
50

2 agree to the contrary, the issuing tribunal has continuing,  
3 exclusive jurisdiction over its child-support order--which in  
4 practical terms means that it may modify its order. The statute  
5 attempts to be even-handed. The identity of the remaining  
6 party--obligor or obligee--does not matter. If the individual  
7 parties have left the issuing State but the child remains behind,  
8 continuing, exclusive jurisdiction [a.k.a. CEJ ] remains with the  
9 issuing State. Even if all parties and the child no longer reside  
10 in the State, the support order continues in existence and is  
11 fully enforceable unless and until a modification takes place in  
12 accordance with the requirements of Article 6, infra. Note,  
13 however, that the CEJ of the issuing State over a spousal support  
14 order is permanent, see Section 211, infra.

15 In 2001 a significant, albeit subtle amendment was made to  
16 Subsection (a)(1). The intent was not to make a substantive  
17 change, but rather to clarify the original intent of the Drafting  
18 Committee. First, the time to measure whether the issuing  
19 tribunal has continuing, exclusive jurisdiction to modify its  
20 order, or whether all parties and child have left the State, is  
21 explicitly stated to be at the time of filing a proceeding to  
22 modify the child support order. Second, substitution of the term  
23 "is the residence" for the term "remains the residence" makes  
24 clear that any interruption of residence of a party between the  
25 date of the issuance of the order and the date of filing the  
26 request for modification does not affect jurisdiction to modify.  
27 Thus, if there is but one order, it is the controlling order in  
28 effect and enforceable throughout the United States,  
29 notwithstanding the fact that everyone has left the issuing  
30 State. If the order is not modified during this time of absence,  
31 a return to reside in the issuing State by a party or child will  
32 immediately identify the proper forum at the time of filing a  
33 proceeding for modification. Although the statute does not speak  
34 explicitly to the issue, temporary absence should be treated in a  
35 similar fashion. Temporary employment in another State may not  
36 forfeit a claim of residence in the issuing State, State ex rel.  
37 Havlin v. Jamison, 971 S.W.2d 938 (Mo. App. 1998). Of course,  
38 residence is a fact question for the trial court, keeping in mind  
39 that the question is residence, not domicile.

40 A substantive change is made by the 2001 amendment that adds  
41 entirely new language to Subsection (a)(2). From the beginning of  
42 the implementation of the CEJ principle, questions have been  
43 raised about why a tribunal may not modify its own order if the  
44 parties agree that it should do so even after both parties have  
45 left the State. The move of the parties and the child from the  
46 State may have been of a very short distance and, although the  
47 parties reside outside the issuing State, they may prefer to  
48 continue to be governed by the same issuing tribunal because they  
49 continue to have a strong affiliation with the issuing tribunal.  
50

2 For example, the child-support order may have been issued by a  
3 tribunal of Washington, D.C. Subsequently the obligee and child  
4 have moved to Virginia, the obligor now resides in Maryland, and  
5 perhaps one or both parties continue to be employed in  
6 Washington. The possibility that under such circumstances the  
7 parties reasonably may prefer to continue to deal with the  
8 issuing tribunal convinced the Drafting Committee to add this  
exception to the basic principle of CEJ to modify.

10 The other side of the coin follows logically. Just as Subsection  
11 (a) defines the retention of continuing, exclusive jurisdiction,  
12 by clear implication the subsection also identifies how  
13 jurisdiction to modify may be lost. That is, if all the relevant  
14 persons--the obligor, the individual obligee, and the child--have  
15 permanently left the issuing State, the issuing State no longer  
16 has an appropriate nexus with the parties or child to justify the  
17 exercise of jurisdiction to modify its child-support order. See  
18 In re Marriage of Erickson, Wash. App. Div. 3 2000, 991 P.2d 123,  
19 98 (Wash. App. 2000); Groseth v. Groseth, 600 N.W.2d 159 (Neb.  
20 1999). Further, the issuing tribunal has no current information  
21 about the factual circumstances of anyone involved, and the  
22 taxpayers of that State have no reason to expend public funds on  
23 the process. Note, however, that the original order of the  
24 issuing tribunal remains valid and enforceable. That order is in  
25 effect not only in the issuing State but also in those States in  
26 which the order has been registered. It also may be registered  
27 and enforced in additional States even after the issuing State  
28 has lost its power to modify its order, see Sections 601-604,  
29 infra. The original order remains in effect until it is properly  
30 modified in accordance with the narrow terms of Sections 609-612,  
31 infra.

32 Subsection (b)(1), reworded in 2001, explicitly states that the  
33 issuing State may also lose its continuing, exclusive  
34 jurisdiction to modify if the parties consent in a record for  
35 another State to assume jurisdiction to modify (even though one  
36 of the parties or the child continues to reside in the issuing  
37 State). Filing of the record in the issuing State divests the  
38 issuing tribunal of its CEJ. See Peace v. Peace, 737 A.2d 1164  
39 (N.J. Super. 1999). The Drafting Committee anticipated that such  
40 an agreement would seldom occur because of the almost universal  
41 desire of each party to prefer his or her local tribunal; but,  
42 the Committee also believed that the parties should be allowed to  
43 agree upon an alternate forum if they choose to do so. The 2001  
44 rewording of this provision also makes this procedure available  
45 in a situation in which all the parties and the child have left  
46 the issuing State and are in agreement that a tribunal of the  
47 State in which only the movant resides shall assume modification  
48 jurisdiction.

50

2 Although Subsections (a) and (b) identify the methods for the  
3 retention and the loss of continuing, exclusive jurisdiction by  
4 the issuing tribunal, this section does not confer jurisdiction  
5 to modify on another tribunal. Modification requires that a  
6 tribunal have personal jurisdiction over the parties and meet  
7 other criteria as provided in Sections 609 through 615, *infra*.

8 **§2966. Continuing jurisdiction to enforce child support order**

10 **1. Initiating tribunal to enforce or modify.** A tribunal of  
11 this State that has issued a child support order consistent with  
12 the laws of this State may serve as an initiating tribunal to  
13 request a tribunal of another state to enforce:

14 A. The order if the order is the controlling order and has  
15 not been modified by a tribunal of another state that  
16 assumed jurisdiction pursuant to the Uniform Interstate  
17 Family Support Act; or

18 B. A money judgment for arrears of support and interest on  
19 the order accrued before a determination that an order of  
20 another state is the controlling order.

21 **2. Responding tribunal to enforce or modify.** A tribunal of  
22 this State having continuing jurisdiction over a support order  
23 may act as a responding tribunal to enforce or modify the order.

24 **Uniform Comment**

25 (This is Section 206 of the Uniform Act.)

26 This section is the correlative of the continuing, exclusive  
27 jurisdiction asserted in the preceding section. It makes the  
28 relatively subtle distinction between the CEJ "to modify a  
29 support order" established in Section 205 and the "continuing  
30 jurisdiction to enforce" established in this section. A keystone  
31 of UIFSA is that the power to enforce the order of the issuing  
32 State is not "exclusive" with that State. Rather, on request one  
33 or more responding States may also exercise authority to enforce  
34 the order of the issuing State. Secondly, under the  
35 one-order-at-a-time system, the validity and enforceability of  
36 the controlling order continues unabated until it is fully  
37 complied with, unless it is replaced by a modified order issued  
38 in accordance with the standards established by Sections 609-615.  
39 That is, even if the individual parties and the child no longer  
40 reside in the issuing State, the controlling order remains in  
41 effect and may be enforced by the issuing State or any responding  
42 State without regard to the fact that the potential for its  
43 modification and replacement exists. The 2001 amendments to  
44 Subsection (a) authorize the issuing tribunal to initiate a

2 request for enforcement of its order by a tribunal of another  
3 State if its order is controlling, see Section 207, or to request  
4 reconciliation of the arrears and interest due on its order if  
5 another order is controlling.

6 Subsection (b) reiterates that the issuing State has jurisdiction  
7 to serve as a responding State to enforce its own order at the  
8 request of another State.

10 The 2001 amendments moved the second sentence in Subsection (b)  
11 to Section 210, infra, and moved Subsection (c) to Section 211,  
12 infra.

14 **§2967. Determination of controlling child support orders**

16 **1. Recognition of orders; one tribunal.** If a proceeding is  
17 brought under this chapter and only one tribunal has issued a  
18 child support order, the order of that tribunal controls and must  
19 be so recognized.

20 **2. Recognition of orders; 2 or more tribunals.** If a  
21 proceeding is brought under this chapter and 2 or more child  
22 support orders have been issued by tribunals of this State or  
23 another state with regard to the same obligor and same child, a  
24 tribunal of this State having personal jurisdiction over both the  
25 obligor and individual obligee shall apply the following rules  
26 and by order shall determine which order controls.

27 **A. If only one of the tribunals has continuing, exclusive**  
28 **jurisdiction under this chapter, the order of that tribunal**  
29 **controls and must be so recognized.**

30 **B. If more than one of the tribunals has continuing,**  
31 **exclusive jurisdiction under this chapter:**

32 **(1) An order issued by a tribunal in the home state of**  
33 **the child controls; or**

34 **(2) If an order has not been issued in the home state**  
35 **of the child, the order most recently issued controls.**

36 **C. If none of the tribunals have continuing, exclusive**  
37 **jurisdiction under this chapter, the tribunal of this State**  
38 **shall issue a child support order, which controls.**

39 **3. Request for order.** If 2 or more child support orders  
40 have been issued for the same obligor and same child, upon  
41 request of a party who is an individual or a support enforcement  
42 agency, a tribunal of this State having personal jurisdiction  
43 over both the obligor and the obligee who is an individual shall  
44

2 determine which order controls under subsection 2. The request  
3 may be filed with a registration for enforcement or registration  
4 for modification pursuant to subchapter 6 or may be filed as a  
5 separate proceeding.

6 **4. Copy of orders required.** A request to determine which  
7 is the controlling order must be accompanied by a copy of every  
8 child support order in effect and the applicable record of  
9 payments. The requesting party shall give notice of the request  
10 to each party whose rights may be affected by the determination.

11 **5. Tribunal having continuing, exclusive jurisdiction.** The  
12 tribunal that issued the controlling order under subsection 1, 2  
13 or 3 has continuing jurisdiction to the extent provided in  
14 section 2965 or 2966.

15 **6. Basis for order.** A tribunal of this State that  
16 determines by order which is the controlling order under  
17 subsection 2, paragraph A or B or subsection 3, or that issues a  
18 new controlling order under subsection 2, paragraph C, shall  
19 state in that order:

20 A. The basis upon which the tribunal made its determination;

21 B. The amount of prospective support, if any; and

22 C. The total amount of consolidated arrears and accrued  
23 interest, if any, under all of the orders after all payments  
24 made are credited as provided by section 2969.

25 **7. Filing certified copy of order.** Within 30 days after  
26 issuance of an order determining which order is the controlling  
27 order, the party obtaining the order shall file a certified copy  
28 of it in each tribunal that issued or registered an earlier order  
29 of child support. A party or support enforcement agency obtaining  
30 the order that fails to file a certified copy is subject to  
31 appropriate sanctions by a tribunal in which the issue of failure  
32 to file arises. The failure to file does not affect the validity  
33 or enforceability of the controlling order.

34 **8. Controlling order or judgment must be recognized.** An  
35 order that has been determined to be the controlling order, or a  
36 judgment for consolidated arrears of support and interest, if  
37 any, made pursuant to this section must be recognized in  
38 proceedings under this chapter.

39 **Uniform Comment**

40 (This is Section 207 of the Uniform Act.)

2 Next to the introduction of the concept of continuing exclusive  
jurisdiction in Section 205, supra, the most dramatic founding  
4 principle of UIFSA was to establish a system whereby the multiple  
orders created by URESA and RURESAs could be reconciled in the  
6 transition from a world with multiple child-support orders to a  
one-order-at-a-time world. This principle introduced by Section  
207 was subsequently incorporated into the requirements of 28 USC  
8 1738B, Full Faith and Credit for Child Support Orders, a.k.a.  
FFCCSOA.

10 Sections 207 and 209-210 are designed to span the gulf between  
12 the one-order system created by UIFSA and the multiple-order  
system previously in place under RURESAs and URESAs. UIFSA  
14 necessarily must provide transitional procedures for the eventual  
elimination of existing multiple support orders in an expeditious  
16 and efficient manner. But, even though all U.S. jurisdictions  
enacted UIFSA by 1998, many years will pass before its one-order  
18 system will be completely in place. Multiple orders covering the  
same parties and child number in the hundreds of thousands; it  
20 can be reasonably anticipated that some of these orders will  
continue in effect until nearly 2020. To begin the journey toward  
22 a one-order system, however, this section provides a relatively  
simple procedure designed to identify a single viable order that  
24 will be entitled to prospective enforcement in every UIFSA State.

26 Subsection (a) declares that if only one child support order  
exists, it is to be denominated the controlling order,  
28 irrespective of when and where it was issued and whether any of  
the individual parties or the child continue to reside in the  
30 issuing State.

32 Subsection (b) establishes the priority scheme for recognition  
and prospective enforcement of a single order among existing  
34 multiple orders regarding the same obligor, obligee, and child.  
The 2001 amendment to Subsection (b) clarifies that a tribunal  
36 requested to sort out the multiple orders and determine which one  
will be prospectively controlling of future payments must have  
38 personal jurisdiction over the litigants in order to ensure that  
its decision is binding on all concerned. For UIFSA to function,  
40 one order must be denominated as the controlling order, and its  
issuing tribunal must be recognized as having continuing,  
42 exclusive jurisdiction. In choosing among existing multiple  
orders, none of which can be distinguished as being in conflict  
44 with the principles of UIFSA, Subsection (b)(1) gives first  
priority to an order issued by the only tribunal that is entitled  
46 to continuing, exclusive jurisdiction under the terms of UIFSA,  
i.e., an individual party or the child continues to reside in  
48 that State and no other issuing State meets this criterion. If  
two or more tribunals would have continuing, exclusive  
50 jurisdiction under the Act, Subsection (b)(2) first looks to the

2 tribunal of the child's current home State. If that State has not  
issued a support order, Subsection (b)(2) looks next to the order  
4 most recently issued. Finally, Subsection (b)(3) provides that if  
none of the existing multiple orders are entitled to be  
6 denominated as the controlling order because none of the  
preceding priorities apply, the forum tribunal is directed to  
8 issue a new order, given that it has personal jurisdiction over  
the obligor and obligee. The new order becomes the controlling  
10 order, establishes the continuing, exclusive jurisdiction of the  
tribunal, and fixes the support obligation and its nonmodifiable  
12 aspects, primarily duration of support, see Sections 604 and  
611(c), infra. The rationale for creating a new order to replace  
14 existing multiple orders is that there is no valid reason to  
prefer the terms of any one of the multiple orders over another  
16 in the absence of a fact situation described in Subsections  
(b)(1) or (b)(2).

18 As originally promulgated, UIFSA did not come to grips with  
whether existing multiple orders issued by different States might  
20 be entitled to full faith and credit without regard to the  
determination of the controlling order under the Act. The  
22 drafters took the position that state law, however uniform, could  
not interfere with the ultimate interpretation of a  
24 constitutional directive. Fortunately, this question has almost  
certainly been mooted by the 1996 amendment to 28 U.S.C. Section  
26 1738B, Full Faith and Credit for Child Support Orders. Congress  
incorporated the multiple order recognition provisions of Section  
28 207 of UIFSA into FFCCSOA virtually word for word in the PERSONAL  
RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF 1996.  
30 Pub. L. 104-193, Aug. 22, 1996, 110 Stat. 2221.

32 It is not altogether clear whether the terms of UIFSA apply to a  
strictly intrastate case; that is, a situation in which multiple  
34 child support orders have been issued by multiple tribunals of a  
single State and all parties and the child continue to reside in  
36 that State. This is not an uncommon situation, often traceable to  
the intrastate applicability of RURES. A literal reading of the  
38 statutory language suggests the section applies. Further, FFCCSOA  
does not make a distinction regarding the tribunals that issued  
40 multiple orders. If multiple orders have been issued by different  
tribunals in the home State of the child, most likely the most  
42 recent will be recognized as the controlling order,  
notwithstanding the fact that UIFSA Section 207(b)(2)(B) and  
44 FFCCSOA 42 U.S.C. Section 1738B(f)(3) literally do not apply. At  
the very least, this section, together with FFCCSOA, provide a  
46 template for resolving such conflicts.

48 Subsection (c), added in 1996, clarifies that any party or a  
support enforcement agency may request a tribunal of the forum  
50 State to identify the controlling order. That party is directed



2 to fully inform the tribunal of all existing child support orders.

4 The 2001 addition of new Subsection (d) is to assure the tribunal  
6 is furnished with all the information needed to make a proper  
8 determination of the controlling order as well as the information  
10 needed to make a calculation of the consolidated arrears. The  
12 party or support enforcement agency requesting the determination  
14 of controlling order and determination of consolidated arrears is  
also required to notify all other parties and entities who may  
have an interest in either of those determinations. Those with  
such an interest most likely are support agencies and the  
obligee.

16 Relettered Subsection (e) provides that the determination of the  
controlling order under this section has the effect of  
18 establishing the tribunal with continuing, exclusive  
jurisdiction; only the order of that tribunal is entitled to  
prospective enforcement by a sister State.

20 Relettered Subsection (f) directs the forum tribunal to identify  
22 the details upon which it makes its determination of the  
controlling order. In addition, the tribunal is also directed to  
24 state specifically the amount of the prospective support, and to  
reconcile and consolidate the arrears and interest due on all of  
26 the multiple orders to the extent possible.

28 The party obtaining the determination is directed by relettered  
Subsection (g) to notify all interested tribunals of the decision  
30 after the fact. Although tribunals need not be given original  
notice of the proceeding, all tribunals that have contributed an  
32 order to the determination must be informed regarding which order  
was determined to be controlling, and should also be informed of  
34 the consolidated arrears and interest so that the extent of  
possible subsequent enforcement will be known with regard to each  
36 of the orders. The Act does not deal with the resolution of  
potential conflicting claims regarding arrears; this is left to  
38 case-by-case decisions or to federal regulation.

40 Section 207 presumes that the parties are accorded notice and  
opportunity to be heard by the tribunal. It also presumes that  
42 the tribunal will be fully informed about all existing orders  
when it is requested to determine which one of the existing  
44 multiple child support orders is to be accorded prospective  
enforcement. If this does not occur and one or more existing  
46 orders is not considered by the tribunal, the finality of its  
decision is likely to turn on principles of estoppel on a  
48 case-by-case basis. Finally, new Subsection (h), added in 2001,  
affirms the concept that when a fully informed tribunal makes a  
50 determination of the controlling order for prospective

2 enforcement, or renders a judgment for the amount of the  
3 consolidated arrears, the decision is entitled to full faith and  
4 credit.

6 **§2968. Child support orders for 2 or more obligees**

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

16 **Uniform Comment**

18 (This is Section 208 of the Uniform Act.)

20 Multiple orders may involve two or more families of the same  
21 obligor. Although all such orders are entitled to enforcement,  
22 practical difficulties frequently exist. For example, full  
23 enforcement of each of the multiple orders may exceed the maximum  
24 allowed for income withholding. The federal statute, 42 U.S.C.  
25 Section 666(b)(1), requires that to be eligible for the federal  
26 funding for enforcement, States must provide a ceiling for child  
27 support withholding expressed in a percentage that may not exceed  
28 the federal consumer credit code limitations on wage garnishment,  
29 15 U.S.C. Section 1673(b). In order to allocate resources between  
30 competing families, UIFSA refers to state law. The basic  
31 principle is that one or more foreign orders for the support of  
32 an out-of-state family of the obligor, and one or more orders for  
33 an in-state family, are all of equal dignity. In allocating  
34 payments to different obligees, every child support order should  
35 be treated as if it had been issued by a tribunal of the forum  
36 State.

38 **§2969. Credit for payments**

40 A tribunal of this State shall credit amounts collected for  
41 a particular period pursuant to any child support order against  
42 the amounts owed for the same period under any other child  
43 support order for support of the same child issued by a tribunal  
44 of this State or another state.

46 **Uniform Comment**

48 (This is Section 209 of the Uniform Act.)

50 Because of the multiple orders possible under the former  
reciprocal acts, RURESA and URESA, the predecessor section was

2 nominally concerned with insuring that payments made on a  
particular order were credited toward the amounts due on all  
4 other orders. As a practical matter, however, very little  
attention was paid to that provision. No mechanism was available  
6 to reconcile payments on multiple orders other than the obligor's  
record keeping, if any.

8 Quite a different situation is currently in place throughout the  
nation. The advent and development of IV-D agencies has brought  
10 collection of arrears and interest on those arrears to the  
forefront. Computerized exchange of complex information is now  
12 almost instantaneously available in many cases. Thus, deciphering  
the financial information available to accord credit for payment  
14 on one order against other orders is possible to a degree unknown  
in the days of RURESA. For example, full payment of \$300 on an  
16 order of State C earns a 100% pro tanto discharge of the current  
support owed on a \$200 order of State A, and a 75% credit against  
18 a \$400 order of State B. Crediting payments against arrears on  
multiple orders is more complex, and is subject to different  
20 constructions in various states.

22 Under the one-order system of UIFSA, an obligor ultimately will  
be ordered to pay only one sum-certain amount for current  
24 support, and a sum certain to reduce arrears and interest, if  
any. Nonetheless, multiple orders will exist for several years  
26 into the future. Moreover, even under a one-order system, more  
than one entity may be engaged in collecting past arrears.  
28 Ultimately those collections must be reported to a single entity  
with final accounting responsibility. Finally, because the nature  
30 of human enterprise is such that mistakes are inevitable, at  
least on occasion multiple orders will continue to be issued in  
32 error.

34 The issuing tribunal is ultimately responsible for the overall  
control of the enforcement methods employed and for accounting  
36 for the payments made on its order from multiple sources. Until  
that scheme is fully in place, however, it will be necessary to  
38 continue to mandate pro tanto credit for actual payments made  
against all existing orders.

40 The rewording of this section in 2001 reaffirms the simultaneous  
42 accrual and simultaneous credit approach, and provides further  
substance to the directive in Section 207(f) that a tribunal  
44 making a determination of the consolidated arrears must use this  
approach.

46 **§2970. Application of chapter to nonresident subject to personal**  
48 **jurisdiction**

2 A tribunal of this State exercising personal jurisdiction  
3 over a nonresident in a proceeding under this chapter or under  
4 other laws of this State relating to a support order or  
5 recognizing a support order of a foreign country or political  
6 subdivision on the basis of comity may receive evidence from  
7 another state pursuant to section 3016, communicate with a  
8 tribunal of another state pursuant to section 3017 and obtain  
9 discovery through a tribunal of another state pursuant to section  
10 3018. In all other respects, subchapters 3 to 7 do not apply and  
11 the tribunal shall apply the procedural and substantive law of  
12 this State.

#### 13 **Uniform Comment**

14 (This is Section 210 of the Uniform Act.)

15  
16 Although this section is a product of the 2001 amendments, in  
17 fact it combines provisions formerly found in Sections 202 and  
18 206(b) into a single, comprehensive provision. Section 202 took  
19 account of the fact that assertion of long-arm jurisdiction over  
20 a nonresident results in a one-state proceeding, notwithstanding  
21 the fact that the parties reside in different States. Section  
22 206(b) made a vital contribution to the exercise of continuing,  
23 exclusive jurisdiction to modify and continuing jurisdiction to  
24 enforce support orders if one of the parties to an original  
25 proceeding in the forum State subsequently left the State after  
26 the initial support order was issued. Indeed, it is far more  
27 common for a support order to be issued in conjunction with a  
28 divorce or determination of parentage in which both the obligor  
29 and obligee are residents of the forum than to be issued as a  
30 result of an assertion of long-arm jurisdiction. Note that either  
31 the petitioner or the respondent may be the nonresident party  
32 (either of whom may be the obligor or the obligee). And, also  
33 note that absent this provision the ordinary intrastate  
34 substantive and procedural law of the forum would apply to either  
35 fact situation without reference to the fact that one of the  
36 parties is a nonresident. In sum, whether the matter at hand  
37 involves establishment of an original support order or  
38 enforcement or modification of an existing order. If one of the  
39 parties resides outside the forum State, the nonresident may  
40 avail himself or herself of the special evidentiary and discovery  
41 provisions provided by UIFSA.

42  
43 Except for the three sections specified, the provisions of  
44 UIFSA--its title labels it an interstate act--are not applicable  
45 to an intrastate proceeding. The first exception allows the  
46 tribunal to apply the special rules of evidence and procedure of  
47 Section 316 in order to facilitate decision-making when one party  
48 resides in another State. The improved interstate exchange of  
49 information enables the nonresident to participate as fully as  
50

2 possible in the proceedings without the necessity of personally  
3 appearing in the forum State. The same considerations account for  
4 authorizing inter-tribunal communications as per Section 317.  
5 Finally, the two-state discovery procedures of Section 318 are  
6 made applicable in a one-state proceeding when a foreign tribunal  
7 can assist in that process. In all other situations, the ordinary  
8 substantive and procedural law of the forum State applies to a  
9 one-state proceeding. In sum, the parties and the tribunal in a  
10 one-state case may utilize those two-state procedures that  
11 contribute to economy, efficiency, and fair play.

12 Finally, the 2001 amendment recognizes and extends the operation  
13 of these evidentiary and discovery provisions to a case involving  
14 a foreign support order recognized on the basis of comity.

15 **§2971. Continuing, exclusive jurisdiction to modify spousal**  
16 **support order**

17 **1. Tribunal of this State; continuing, exclusive**  
18 **jurisdiction.** A tribunal of this State issuing a spousal support  
19 order consistent with the law of this State has continuing,  
20 exclusive jurisdiction to modify the spousal support order  
21 throughout the existence of the support obligation.  
22

23 **2. Spousal support issued by another state.** A tribunal of  
24 this State may not modify a spousal support order issued by a  
25 tribunal of another state having continuing, exclusive  
26 jurisdiction over that order under the law of that state.  
27

28 **3. Tribunal of this State; initiating or responding**  
29 **tribunal.** A tribunal of this State that has continuing,  
30 exclusive jurisdiction over a spousal support order may serve as:  
31

32 **A. An initiating tribunal to request a tribunal of another**  
33 **state to enforce the spousal support order issued in this**  
34 **State; or**  
35

36 **B. A responding tribunal to enforce or modify its own**  
37 **spousal support order.**  
38

39 **Uniform Comment**

40 (This is Section 211 of the Uniform Act.)  
41

42 This is not new language; a 2001 amendment moved former Section  
43 205(f) to this stand-alone section. Complimentary provisions with  
44 regard to other aspects of CEJ over a spousal support order are  
45 also moved. An order for spousal support is treated differently  
46 than an order for child support. The issuing tribunal retains  
47 continuing, exclusive jurisdiction over an order of spousal  
48 support.  
49  
50

2 support throughout the entire existence of the support  
obligation. Sections 205(f) and 206(c) state that the procedures  
of UIFSA are not available to a responding tribunal to modify the  
4 existing spousal support order of the issuing State. This marks a  
radical departure from RURESA, which treated spousal and child  
6 support orders identically. Under UIFSA, "interstate"  
modification of spousal support is limited to a procedure whereby  
8 a proceeding may be initiated outside of the issuing State, but  
only the tribunal in the original issuing State may modify the  
10 order under its law. This approach was expected to have minimal  
effect on actual practice, a prediction that appears to have been  
12 accurate. Interstate modification of pure spousal support was  
relatively rare under RURESA, and plays almost no part in the  
14 activities of support enforcement agencies.

16 The prohibition of modification of spousal support by a  
nonissuing state tribunal under UIFSA is consistent with the  
18 principle that a tribunal should apply local law to such cases to  
insure efficient handling and to minimize choice of law problems.  
20 Avoiding conflict of law problems is almost impossible if spousal  
support orders are subject to modification in a second State. For  
22 example, States take widely varying views of the effect on a  
spousal support order of the obligee's remarriage or nonmarital  
24 cohabitation. Making a distinction between spousal and child  
support is further justified because the standards for  
26 modification of child support and spousal support are very  
different. In most jurisdictions a dramatic improvement in the  
28 obligor's economic circumstances will have little or no relevance  
in a proceeding seeking an upward modification of spousal  
30 support, while a similar change in an obligor's situation  
typically is the primary basis for an increase in child support.  
32 This disparity is founded on a policy choice that post-divorce  
success of an obligor-parent should benefit the obligor's child,  
34 but not the obligor's ex-spouse.

36 Finally, UIFSA does not provide for shifting the continuing,  
exclusive jurisdiction over a spousal-support order by mutual  
38 agreement. That procedure is limited to child support under  
Section 205(b)(1). Note that the Act is silent rather than  
40 preclusive on the subject. If the parties wish to enter into such  
an agreement, it is up to the individual States to decide whether  
42 to recognize it. A waiver of continuing, exclusive jurisdiction  
and subsequent modification of spousal support by a tribunal of  
44 another State simply is not authorized by UIFSA, rather than  
prohibited.

46  
48 **Sec. 11. 19-A MRSA §3001**, as enacted by PL 1995, c. 694, Pt.  
B, §2 and affected by Pt. E, §2, is repealed and the following  
enacted in its place:

50

2 **§3001. Proceedings under this chapter**

4 **1. Application of subchapter.** Except as otherwise provided  
6 in this chapter, this subchapter applies to all proceedings under  
8 this chapter.

10 **1-A. Initiation of proceedings.** An individual petitioner  
12 or a support enforcement agency may initiate a proceeding  
14 authorized under this chapter by filing a petition in an  
16 initiating tribunal for forwarding to a responding tribunal or by  
18 filing a petition or a comparable pleading directly in a tribunal  
20 of another state that has or can obtain personal jurisdiction  
22 over the respondent.

24 **Uniform Comment**

26 (This is Section 301 of the Uniform Act.)

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

32 A 2001 amendment deletes the original Subsection (b), the once  
34 controversial "road map" originally thought by the 1992 Drafting  
36 Committee to be required in order to introduce the large number  
38 of non-lawyer administrators employed by child support  
40 enforcement agencies to the intricacies of UIFSA. Given the  
42 extensive training on the Act throughout the nation, the road map  
no longer can be viewed as necessary.

Relettered Subsection (b) continues in a new form the basic  
two-state procedure long-employed by the former reciprocal acts  
to establish a support order in the interstate context. Direct  
filing of a petition in the responding State by an individual or  
a support enforcement agency without reference to an initiating  
tribunal State was introduced by UIFSA 1992. Although filing of a  
petition in an initiating tribunal to be forwarded to a  
responding tribunal is still recognized as a possible procedure,  
the direct filing procedure has proven to be one of the most  
significant improvements in efficient interstate case management.  
The promulgation and use of the federally mandated forms, Section  
311(b), further serves to eliminate any role for the initiating  
tribunal.

44 **Sec. 12. 19-A MRSA §§3002 and 3003,** as enacted by PL 1995, c.  
46 694, Pt. B, §2 and affected by Pt. E, §2, are amended to read:

48 **§3002. Proceeding by minor parent**

2 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.

4  
6 **Uniform Comment**

(This is Section 302 of the Uniform Act.)

8  
10 A minor parent may maintain a proceeding under UIFSA without the  
appointment of a guardian ad litem, even if the law of the forum  
jurisdiction requires a guardian for an in-state case. If a  
12 guardian or legal representative has been appointed, he or she  
may act on behalf of the minor's child in seeking support.

14 **§3003. Application of law of this State**

16  
18 Except as otherwise provided by in this chapter, a  
responding tribunal of this State shall:

20 **1. Procedural and substantive law; powers and remedies.**  
Apply the procedural and substantive law, ~~including the rules on~~  
22 ~~choice of law~~, generally applicable to similar proceedings  
originating in this State and may exercise all powers and provide  
24 all remedies available in those proceedings; and

26 **2. Determine duty and amount of support.** Determine the  
duty of support and the amount payable in accordance with the law  
28 and support guidelines of this State.

30 **Uniform Comment**

32 (This is Section 303 of the Uniform Act.)

34 Historically States have insisted that forum law be applied to  
support cases whenever possible. This continues as a key  
36 principle of UIFSA. In general, a responding tribunal has the  
same powers in a proceeding involving interstate parties as it  
38 has in an intrastate case. This inevitably means that the Act is  
not self-contained; rather, it is supplemented by the forum's  
40 statutes and procedures governing support orders. To insure the  
efficient processing of the huge number of interstate support  
42 cases, it is vital that decision-makers apply familiar rules of  
local law to the maximum degree possible. This must be  
44 accomplished in a manner consistent with the overriding principle  
of UIFSA that enforcement is of the issuing tribunal's order, and  
46 that the responding State does not make the order its own as a  
condition of enforcing it.

48



2 Prior to the 2001 amendments, choice of law rules of the forum  
3 State were specifically invoked in three places; henceforth  
4 Section 604 is the sole reference to the issue.

6 **Sec. 13. 19-A MRSA §3004**, as enacted by PL 1995, c. 694, Pt.  
7 B, §2 and affected by Pt. E, §2, is repealed.

8 **Sec. 14. 19-A MRSA §3004-A** is enacted to read:

10 **§3004-A. Duties of initiating tribunal**

12 **1. Forward petition and accompanying documents.** Upon the  
13 filing of a petition authorized by this chapter, an initiating  
14 tribunal of this State shall forward the petition and its  
15 accompanying documents:

16 A. To the responding tribunal or appropriate support  
17 enforcement agency in the responding state; or

18 B. If the identity of the responding tribunal is unknown,  
19 to the state information agency of the responding state with  
20 a request that they be forwarded to the appropriate tribunal  
21 and that receipt be acknowledged.

22 **2. Issue certificate or document; make findings; specify**  
23 **amount.** If requested by the responding tribunal, a tribunal of  
24 this State shall issue a certificate or other document and make  
25 findings required by the law of the responding state. If the  
26 responding state is a foreign country or political subdivision,  
27 upon request the tribunal shall specify the amount of support  
28 sought, convert that amount into the equivalent amount in the  
29 foreign currency under the applicable official or market exchange  
30 rate as publicly reported and provide any other documents  
31 necessary to satisfy the requirements of the responding state.  
32

34 **Uniform Comment**

36 (This is Section 304 of the Uniform Act.)

38 Under UIFSA the role of the initiating tribunal consists of the  
39 ministerial function of forwarding the documents to the  
40 appropriate entity in the responding State for action. The  
41 initiating tribunal has no substantive legal task to perform.  
42

43 Subsection (b) was designed primarily to facilitate interstate  
44 enforcement between UIFSA States and URESA and RURESAs States,  
45 with some applicability to cases involving foreign jurisdictions.  
46 After the nationwide enactment of UIFSA by 1998, see Prefatory  
47 Note, supra, the subsection retains its utility only with regard  
48 to support orders of foreign nations. Supplying documentation  
49  
50

2 required by a foreign jurisdiction which is not otherwise  
3 required by UIFSA procedure will continue to be appropriate in  
4 the international context for the foreseeable future. An  
5 initiating tribunal is authorized to cooperate and provide  
6 whatever information or documentation is required or requested by  
7 a foreign jurisdiction. For example, a statement of the amount of  
8 support being requested is required by Canadian provinces before  
9 a tribunal will establish a support order. The 2001 amendment  
10 adds a duty for the initiating tribunal to state the amount of  
11 foreign currency equivalent to that request; there is a  
12 corresponding duty of a responding tribunal to convert the  
13 foreign currency into dollars if the foreign initiating tribunal  
14 does not, Section 305(f).

15  
16 The reference to "the applicable official or market exchange  
17 rate" takes into account the present practices of international  
18 money markets. A few countries continue to maintain an official  
19 exchange rate for their currency. The vast majority of countries  
20 recognize the fact that the value of their currency is subject to  
21 daily market fluctuations that are reported on the financial  
22 pages of many daily newspapers. Thus, in the example described  
23 above, a request for a specific amount of support in U.S.  
24 dollars, which is to be translated into Canadian dollars on a  
25 specific date, will inevitably have a variable value as the  
26 foreign currency rises or falls against the U.S. dollar.

27  
28 **Sec. 15. 19-A MRSA §3005, sub-§2,** as enacted by PL 1995, c.  
29 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

30 **2. Powers of responding tribunal.** A responding tribunal of  
31 this State, to the extent ~~otherwise authorized~~ not prohibited by  
32 other law, may:

33  
34 A. Issue or enforce a support order, modify a child support  
35 order, determine the controlling child support order or  
36 render a judgment to determine parentage;

37  
38 B. Order an obligor to comply with a support order,  
39 specifying the amount and the manner of compliance;

40  
41 C. Order income withholding;

42  
43 D. Determine the amount of any arrearages and specify a  
44 method of payment;

45  
46 E. Enforce orders by civil or criminal contempt, or both;

47  
48 F. Set aside property for satisfaction of the support order;

- 2 G. Place liens and order execution on the obligor's  
property;
- 4 H. Order an obligor to keep the tribunal informed of the  
obligor's current residential address, telephone number,  
6 employer, address of employment and telephone number at the  
place of employment;
- 8 I. Issue a capias for an obligor who has failed after  
10 proper notice to appear at a hearing ordered by the tribunal  
and enter the capias in any local and state computer systems  
12 for criminal warrants;
- 14 J. Order the obligor to seek appropriate employment by  
specified methods;
- 16 K. Award reasonable attorney's fees and other fees and  
18 costs; or
- 20 L. Grant any other available remedy.

22 **Sec. 16. 19-A MRSA §3005, sub-§6** is enacted to read:

24 6. Convert foreign currency amount to dollar amount. If  
26 requested to enforce a support order, arrears or judgment or  
modify a support order stated in a foreign currency, a responding  
tribunal of this State shall convert the amount stated in the  
28 foreign currency to the equivalent amount in dollars under the  
applicable official or market exchange rate as publicly reported.

30

**Uniform Comment**

32

(This is Section 305 of the Uniform Act.)

34

36 This section establishes a wide variety of duties for a  
responding tribunal. It contains: ministerial functions,  
Subsection (a); judicial functions, Subsection (b); and,  
38 substantive rules applicable to interstate cases, Subsections  
(c)-(e). Because a responding tribunal may be an administrative  
40 agency rather than a court, the Act explicitly states that a  
tribunal is not granted powers that it does not otherwise possess  
42 under state law. For example, authority to enforce a support  
order by contempt generally is limited to courts.

44

46 Subsection (a) directs the filing of the documents received  
without regard to whether an initiating tribunal in another State  
was involved in forwarding the documentation. It also directs  
48 that the individual or entity requesting the filing be notified,  
but leaves the means of that notification to local law. The  
50 advent of a variety of swifter, and perhaps even more reliable,

2 forms of notice in the modern era justifies the deletion of a  
particular form of notice. For example, many States now authorize  
4 notice by telephone facsimile (FAX), or by an express delivery  
service. Already many legal documents are transmitted by  
6 electronic mail (email).

8 Subsection (b) lists duties that, if possessed under state law in  
connection with in-state cases, are allocated to the responding  
10 tribunal in UIFSA cases. Thus, each subdivision purposefully  
avoids mention of substantive rules. For example, Subsection  
12 (b)(7) does not identify the type, nature, or priority of liens  
that may be issued under UIFSA. As is generally true under the  
14 Act, those details will be determined by applicable state law  
concerning support enforcement remedies of local orders.

16 Subsection (c) clarifies that the details of calculating the  
child support order are to be included along with the order.  
18 Local law generally requires that variation from the child  
support guidelines must be explained, see 42 U.S.C. Section 667;  
20 this requirement is extended to interstate cases.

22 Subsection (d) states that an interstate support order may not be  
conditioned on compliance with a visitation order. Chaisson v.  
24 Ragsdale, 914 S.W.2d 739 (Ark. 1996). While this may be at  
variance with state law governing intrastate cases, under a UIFSA  
26 proceeding the petitioner generally is not present before the  
tribunal. This distinction justifies prohibiting visitation  
28 issues from being litigated in the context of a support  
proceeding. All States have enacted some version of either the  
30 UCCJA or the UCCJEA providing for resolution of visitation issues  
in interstate cases.

32 Subsection (e) introduces the policy determination that the  
petitioner, the respondent, and the initiating tribunal, if any,  
34 shall be kept informed about actions taken by the responding  
tribunal.  
36

38 Subsection (f) is designed to facilitate enforcement of foreign  
support orders.  
40

**Sec. 17. 19-A MRSA §3007, sub-§2, ¶¶D and E**, as enacted by PL  
42 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to  
read:  
44

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

2 E. Within 2 days, exclusive of Saturdays, Sundays and legal  
4 holidays, after receipt of a written communication in a  
6 record from the respondent or the respondent's attorney,  
8 send a copy of the communication ~~by first-class mail~~ to the  
10 petitioner; and

12 **Sec. 18. 19-A MRSA §3007, sub-§§2-A to 2-C are enacted to read:**

14 **2-A. Registration; reasonable efforts.** If the department  
16 requests registration of a child support order in this State for  
18 enforcement or for modification, the department shall make  
20 reasonable efforts:

22 A. To ensure that the order to be registered is the  
24 controlling order; or

26 B. If 2 or more child support orders exist and the identity  
28 of the controlling order has not been determined, to ensure  
30 that a request for such a determination is made in a  
32 tribunal having jurisdiction to do so.

34 **2-B. Conversion of amounts to dollars.** If the department  
36 requests registration and enforcement of a support order, arrears  
38 or judgment stated in a foreign currency, the department shall  
40 convert the amounts stated in the foreign currency into the  
42 equivalent amounts in dollars under the applicable official or  
44 market exchange rate as publicly reported.

46 **2-C. Issuance upon request.** The department shall issue or  
48 request a tribunal of this State to issue a child support order  
and an income-withholding order that redirect payment of current  
support, arrears and interest if requested to do so by a support  
enforcement agency of another state pursuant to Section 319 of  
the Uniform Interstate Family Support Act.

36 **Uniform Comment**

38 (This is Section 307 of the Uniform Act.)

40 The focus of Subsection (a) is on providing services to a  
42 petitioner, and not merely on "representing" the obligee. Care  
44 should be exercised in the use of terminology given this  
46 substantial alteration of past practice under RURESA. Not only  
48 may either the obligee or the obligor request services, but that  
request may be in the context of the establishment of an initial  
child-support order, enforcement or review and adjustment of an  
existing child-support order, or a modification of that order  
(upward or downward). Note that the Act does not distinguish  
between child support and spousal support for purposes of

2 providing services. Note also, that the services available may  
differ significantly; for example, modification of spousal  
4 support is limited to the issuing State, see Section 205(f),  
supra.

6 Subsection (b) responds to the past complaints of many  
petitioners that they were not properly kept informed about the  
8 progress of their requests for services.

10 The 2001 additions of Subsections (c) and (d) are procedural  
clarifications reflecting actual practice of the support agencies  
12 developed after years of experience with the Act. Subsection (c)  
imposes a duty on all support enforcement agencies to facilitate  
14 the UIFSA one-order world by actively searching for cases with  
multiple orders and obtaining a determination of the controlling  
16 order as expeditiously as possible. This agency duty correlates  
to new Subsection 602(d) regarding the registration process and  
18 cases with multiple orders.

20 Read in conjunction with Section 319, infra, new Subsection (e)  
requires the state support enforcement agency to facilitate  
22 redirection of the stream of child support in order that the  
payments be more efficiently received by the obligee.

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

30 **Sec. 19. 19-A MRSA §3008-A**, as enacted by PL 1997, c. 669,  
32 §18, is amended by adding a new 2nd paragraph to read:

34 The commissioner may determine that a foreign country or  
political subdivision has established a reciprocal arrangement  
36 for child support with this State and take appropriate action for  
notification of the determination.

38 **Uniform Comment**

40 (This is Section 308 of the Uniform Act.)

42 In a carryover from RURESA, Subsection (a) provides that the  
44 State Attorney General, or an alternative designated by state  
law, is given oversight responsibility for the diligent provision  
46 of services by the support enforcement agency and the power to  
seek compliance with the Act.

48 The 2001 addition of Subsection (b) makes clear that a State has  
50 a variety of options in determining the scope of its support

2 enforcement program. In the absence of controlling federal action  
3 declaring a foreign jurisdiction to be a reciprocating country or  
4 political subdivision, see Section 102(21)(B)(i), supra, each  
5 State may designate an official with authority to make a  
6 statewide, binding determination recognizing a foreign country or  
7 political subdivision as having a reciprocal arrangement with the  
8 that State.

9  
10 **Sec. 20. 19-A MRSA §3010, sub-§1, ¶B,** as enacted by PL 1995,  
11 c. 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

12 B. Maintain a register of the lists of names and addresses  
13 of tribunals and support enforcement agencies received from  
14 other states;

15  
16 **Uniform Comment**

17 (This is Section 310 of the Uniform Act.)

18  
19 Subsection (a) identifies the central information agency.  
20 Subsection (b) details the duties of that agency insofar as  
21 interstate proceedings are concerned. Subsection (b)(4) does not  
22 provide independent access to the information sources or to the  
23 governmental documents listed. Because States have different  
24 requirements and limitations concerning such access based on  
25 differing views of the privacy interests of individual citizens,  
26 the agency is directed to use all lawful means under the relevant  
27 state law to obtain and disseminate information.  
28

29  
30 **Sec. 21. 19-A MRSA §3011, sub-§1,** as enacted by PL 1995, c.  
31 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

32  
33 **1. Petition; contents.** --A- In a proceeding under this  
34 chapter, a petitioner seeking to establish or modify a support  
35 order or, to determine parentage in a proceeding under this  
36 chapter or to register and modify a support order of another  
37 state must verify the file a petition. Unless otherwise ordered  
38 under section 3012, the petition or accompanying documents must  
39 provide, so far as known, the names, residential addresses and  
40 social security numbers of the obligor and the obligee or the  
41 parent and alleged parent, and the name, sex, residential  
42 address, social security number and date of birth of each child  
43 for whom whose benefit support is sought or whose parentage is to  
44 be determined. The Unless filed at the time of registration, the  
45 petition must be accompanied by a certified copy of any support  
46 order in-effect known to have been issued by another tribunal.  
47 The petition may include any other information that may assist in  
48 locating or identifying the respondent.

**Uniform Comment**

(This is Section 311 of the Uniform Act.)

This section establishes the basic requirements for drafting and filing interstate pleadings. Subsection (a) should be read in conjunction with Section 312, which provides for the confidentiality of certain information if disclosure is likely to result in harm to a party or a child. The 2001 amendments are directed at improving the efficiency of the process. Illustrative of that goal is the requirement that all known support orders be attached to the petition for relief, coupled with the elimination of the requirement that such copies be certified. If a dispute arises over the authenticity of a purported order, the tribunal must, of necessity, sort out conflicting claims at that time. Another improvement is the deletion of the requirement for verified pleadings originated in URESA and carried forward in the original version of UIFSA.

Subsection (b) provides authorization for the use of the federally authorized forms promulgated in connection with the IV-D child support enforcement program and mandates substantial compliance with those forms. Although the use of other forms is not prohibited, standardized documents have resulted in substantial improvement in the efficient processing of UIFSA proceedings.

**Sec. 22. 19-A MRSA §3012**, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed and the following enacted in its place:

**§3012. Nondisclosure of information in exceptional circumstances**

If a party alleges in an affidavit or a pleading under oath that the health, safety or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

**Uniform Comment**

(This is Section 312 of the Uniform Act.)

Derived from the UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT, Section 209. Information To Be Submitted to Court. This section is the latest version of the statutory formulation originally developed in UIFSA 1992. Public awareness



2 of and sensitivity to the dangers of domestic violence has  
3 significantly increased since interstate enforcement of support  
4 originated. This section authorizes confidentiality in instances  
5 where there is a serious risk of domestic violence or child  
6 abduction. Although local law generally governs the conduct of  
7 the forum tribunal, state law may not provide for maintaining  
8 secrecy about the exact whereabouts of a litigant or other  
9 information ordinarily required to be disclosed under state law,  
10 i.e., Social Security number of the parties or the child. If so,  
11 this section creates a confidentiality provision that is  
12 particularly appropriate in the light of the intractable problems  
13 associated with interstate parental kidnapping, see the PARENTAL  
14 KIDNAPPING PREVENTION ACT (PKPA), 28 U.S.C. Section 1738A.

15 **Sec. 23. 19-A MRSA §3014, sub-§1**, as enacted by PL 1995, c.  
16 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

17 **1. Personal jurisdiction in another proceeding.**  
18 Participation by a petitioner in a proceeding under this chapter  
19 before a responding tribunal, whether in person, by private  
20 attorney or through services provided by the department, does not  
21 confer personal jurisdiction over the petitioner in another  
22 proceeding.

23

#### 24 **Uniform Comment**

25

26 (This is Section 314 of the Uniform Act.)

27

28 Under Subsection (a), direct or indirect participation in a UIFSA  
29 proceeding does not subject a petitioner to an assertion of  
30 personal jurisdiction over the petitioner by the forum State in  
31 other litigation between the parties. The primary object of this  
32 prohibition is to preclude joining disputes over child custody  
33 and visitation with the establishment, enforcement, or  
34 modification of child support. This prohibition strengthens the  
35 ban on visitation litigation established in Section 305(d). A  
36 petition for affirmative relief under UIFSA limits the  
37 jurisdiction of the tribunal to the boundaries of the support  
38 proceeding. In sum, proceedings under UIFSA are not suitable  
39 vehicles for the relitigation of all of the issues arising out of  
40 a foreign divorce or custody cases. Only enforcement or  
41 modification of the support portion of such decrees or orders are  
42 relevant. Other issues, such as custody and visitation, or  
43 matters relating to other aspect of the divorce decree, are  
44 collateral and have no place in a UIFSA proceeding. Chaisson v.  
45 Ragsdale, 914 S.W.2d 739 (Ark. 1996).

46  
47 Subsection (b) grants a litigant a variety of limited immunity  
48 from service of process during the time that party is physically  
49 present in a State for a UIFSA proceeding. The immunity provided  
50

2 is in no way comparable to diplomatic immunity, however, which  
3 should be clear from reading Subsection (c) in conjunction with  
4 the other subsections.

6 Subsection (c) does not extend immunity to civil litigation  
7 unrelated to the support proceeding which stems from  
8 contemporaneous acts committed by a party while present in the  
9 State for the support litigation. For example, a petitioner  
10 involved in an automobile accident or a contract dispute over the  
11 cost of lodging while present in the State does not have immunity  
12 from a civil suit on those issues.

14 **Sec. 24. 19-A MRS §3016, sub-§§1, 2, 5 and 6**, as enacted by PL  
15 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to  
16 read:

18 **1. Physical presence not required.** The physical presence  
19 of ~~the petitioner a nonresident party who is an individual~~ in a  
20 ~~responding~~ tribunal of this State is not required for the  
21 establishment, enforcement or modification of a support order or  
22 the rendition of a judgment determining parentage.

24 **2. Admissible evidence.** ~~A verified petition, an~~ An  
25 affidavit, a document substantially complying with federally  
26 mandated forms ~~and or~~ a document incorporated by reference in any  
27 of them, ~~that would~~ not be excluded under the hearsay rule if  
28 given in person, ~~are~~ is admissible in evidence if given under  
29 oath penalty of perjury by a party or witness residing in another  
30 state.

32 **5. No objection based on means of transmission.**  
33 Documentary evidence transmitted from another state to a tribunal  
34 of this State by telephone, telecopier or other means that does  
35 not provide an original writing record may not be excluded from  
36 evidence on an objection based on the means of transmission.

38 **6. Testimony not in person.** In a proceeding under this  
39 chapter, a tribunal of this State ~~may~~ shall permit a party or  
40 witness residing in another state to be deposed or to testify by  
41 telephone, audiovisual means or other electronic means at a  
42 designated tribunal or other location in that state. A tribunal  
43 of this State shall cooperate with tribunals of other states in  
44 designating an appropriate location for the deposition or  
45 testimony.

46 **Sec. 25. 19-A MRS §3016, sub-§10** is enacted to read:

48 **10. Voluntary acknowledgment admissible.** A voluntary  
49 acknowledgment of paternity, certified as a true copy, is  
50 admissible to establish parentage of the child.

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**Uniform Comment**

(This is Section 316 of the Uniform Act.)

This section combines many time-tested procedures with additional innovative methods for gathering evidence in interstate cases. The amendment to Subsection (a) ensures that a nonresident petitioner or a nonresident respondent may fully participate in a proceeding under the Act without being required to appear personally. This was always the intent of the provision, but the text was ambiguous in this regard.

Subsections (b) through (f) greatly expand the special rules of evidence originally propounded in RURESA which are designed to take into account the virtually unique nature of the interstate proceedings under this Act. These sections provide exceptions to the otherwise guiding principle of UIFSA, *i.e.*, local procedural and substantive law should apply. Because the out-of-state party, and that party's witnesses, necessarily do not ordinarily appear in person at the hearing, deviation from the ordinary rules of evidence is justified in order to assure that the tribunal will have available to it the maximum amount of information on which to base its decision. The intent throughout these subsections is to eliminate by statute as many potential hearsay problems as possible in interstate litigation, with the goal of providing each party with the means to present evidence, even if not physically present. See Attorney General v. Litten, 999 S.W.2d 74 (Tex. App. 1999); State ex rel. T.L.R. v. R.W.T., 737 So.2d 688 (La. 1999).

Perhaps the most dramatic of the 2001 amendments affecting these special rules of evidence is the change of a single word. The authorization in Subsection (f) of telephonic or audiovisual testimony in depositions and in hearing now substitutes the word "shall" for the word "may." Adoption by the States may herald the day when every relevant court room will be equipped with a speaker phone, at the minimum, if not cameras and audiovisual receivers. This amendment will also eliminate decisions such as Schwier v. Bernstein, 734 So.2d 531 (Fla. App. 1999), which construed the use of electronic transmission of testimony to be wholly within the discretion of the tribunal. On a related track, the 2001 amendments to Subsection (b): (1) recognize the pervasive effect of the federal forms promulgated by the Office of Child Support Enforcement, HHS; (2) replace the necessity of swearing to a document "under oath" with the simpler requirement that the document be provided "under penalty of perjury," as is required by federal income tax form 1040.

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

6 Subsections (e) and (f) encourage tribunals and litigants to take  
8 advantage of modern methods of communication in interstate  
support litigation; most dramatically, the out-of-state party is  
10 authorized to testify by telephone and supply documents by fax.  
One of the most useful applications of these subsections has been  
12 the combining of (c) and (e) to provide an enforcing tribunal  
with up-to-date information concerning the amount of arrears.

14 Subsection (g) codifies the rule in effect in many States that in  
16 civil litigation an adverse inference may be drawn from a  
litigant's silence. If a party refuses to submit to genetic  
18 testing, the refusal may be admitted into evidence and the court  
may resolve the question of paternity against that party on the  
20 basis of an inference that the results of the tests would have  
been unfavorable to the interests of the refusing party.

22 Subsection (j), new in 2001, complies with the federally mandated  
24 procedure that every State must honor the "acknowledgment of  
paternity" validly made in another State.

26 **Sec. 26. 19-A MRSA §3017**, as enacted by PL 1995, c. 694, Pt.  
28 B, §2 and affected by Pt. E, §2, is amended to read:

30 **§3017. Communications between tribunals**

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

42 **Uniform Comment**

44 (This is Section 317 of the Uniform Act.)

46 This section authorizes communications between tribunals in order  
to facilitate decisions. The 2001 amendments extend the coverage  
48 of the section to tribunals of foreign nations. Broad cooperation  
between tribunals is permitted to expedite establishment and  
50 enforcement of a support order.



2 expeditious collection and transfer of child support from obligor  
to obligee. States may choose whether only a tribunal may order  
4 redirection of support payments, or whether a support enforcement  
agency of the State is also authorized to render such an order.  
6 Under either approach, the request for such redirection that must  
be acted upon may only be made by a support enforcement agency in  
8 either the issuing State or another State. The basic idea is that  
redirection of payments will be facilitated, with the proviso  
10 that the issuing tribunal be kept informed as to the disposition  
of the payments made under its order.

12 **Sec. 28. 19-A MRS §3051, sub-§2,** as enacted by PL 1995, c.  
694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

14 **2. Responding tribunal may issue temporary support order.**  
16 A responding tribunal of this State may issue a temporary support  
order pursuant to the laws of this State, if the tribunal  
18 determines that such an order is appropriate and the individual  
ordered to pay is:

- 20 A. The presumed father of the child;
- 22 B. Petitioning to have his paternity of the child  
24 adjudicated;
- 26 C. Identified as the father of the child through genetic  
28 testing;
- 30 D. An alleged father of the child who has declined to  
submit to genetic testing;
- 32 E. Shown by clear and convincing evidence to be the father  
34 of the child;
- 36 F. An acknowledged father of the child as provided in Title  
19-A, section 1616;
- 38 G. The mother of the child; or
- 40 H. An individual who has been ordered to pay child support  
42 to the child in a previous proceeding and the order has not  
been reversed or vacated.

44 **Uniform Comment**

46 (This is Section 401 of the Uniform Act.)

48 This section authorizes a tribunal of the responding State to  
issue temporary and permanent support orders binding on an  
50 obligor over whom the tribunal has personal jurisdiction. UIFSA

2 does not permit such orders to be issued when another support  
order exists, thereby prohibiting a second tribunal from  
4 establishing another support order and the accompanying  
continuing, exclusive jurisdiction over the matter, see Sections  
205 and 206.

6  
8 The 2001 rewording of Subsection (b) conforms the language to the  
provisions of the UNIFORM PARENTAGE ACT (2000) regarding the  
individual party who may be ordered to pay temporary support.

10 **Sec. 29. 19-A MRSA §3101**, as repealed and replaced by PL  
12 1997, c. 669, §20, is amended to read:

14 **§3101. Employer's receipt of out-of-state income-withholding  
order**

16  
18 An income-withholding order issued in another state may be  
sent by or on behalf of the obligee or by the department to the  
20 obligor's employer, described as a payor of income under chapter  
65, subchapter IV 4, without first filing a petition or  
22 comparable pleading or registering the order with a tribunal of  
this State.

24 **Uniform Comment**

26 (This is Section 501 of the Uniform Act.)

28 In 1984 Congress mandated that all States adopt procedures for  
enforcing income-withholding orders of sister States. Direct  
30 recognition by the out-of-state obligor's employer of a  
withholding order issued by another State long was sought by  
32 support enforcement associations and other advocacy groups. In  
1992 UIFSA recognized such a procedure. The article was  
34 extensively amended in 1996, but was the subject only of  
clarifying amendments in 2001.

36  
38 Section 501 is deliberately written in the passive voice; the Act  
does not restrict those who may send an income-withholding order  
40 across state lines. Although the sender will ordinarily be a  
child support enforcement agency or the obligee, the obligor or  
42 any other person may supply an employer with the  
income-withholding order. "Sending a copy" of a withholding order  
44 to an employer is clearly distinguishable from "service" of that  
order on the same employer. Service of an order necessarily  
46 intends to invoke a tribunal's authority over an employer doing  
business in the State. Thus, for there to be valid "service" of a  
48 withholding order on an employer in a State, the tribunal must  
have authority to bind the employer. In most cases, this requires  
50 the assertion of the authority of a local responding tribunal in  
a "registration for enforcement" proceeding. In short, the

2 formality of "service" defeats the whole purpose of direct income  
withholding across state lines.

4 In sum, the process contemplated in this article is direct  
6 "notification" of an employer in another State of a withholding  
order without the involvement of initiating or responding  
8 tribunals. Therefore, receipt of a copy of a withholding order by  
facsimile, regular first class mail, registered or certified  
10 mail, or any other type of direct notice is sufficient to provide  
the requisite notice to trigger direct income withholding in the  
12 absence of a contest by the employee-obligor.

14 The 2001 amendments acknowledge that this process is now widely  
used by not only child support enforcement agencies, but also by  
16 private collection agencies or private attorneys acting on behalf  
of obligees.

18 **Sec. 30. 19-A MRSA §3101-B**, as enacted by PL 1997, c. 669,  
§21, is amended to read:

20 **§3101-B. Employer's compliance with multiple income-withholding**  
22 **orders**

24 If an employer receives multiple 2 or more  
income-withholding orders for the same obligor, the employer  
26 satisfies the terms of the multiple orders if the employer  
complies with the laws of the state of the obligor's principal  
28 place of employment when establishing the priorities for  
withholding and allocating income for multiple 2 or more child  
30 support obligees.

32 **Uniform Comment**

34 (This is Section 503 of the Uniform Act.)

36 Consistent with the Act's general problem-solving approach, the  
employer is directed to deal with multiple income orders for  
38 multiple families in the same manner as required by local law for  
orders of the forum State.

40 **Sec. 31. 19-A MRSA §3101-F, sub-§1**, as enacted by PL 1997, c.  
42 669, §21, is amended to read:

44 **1. Contesting the validity or enforcement of an order.** An  
obligor may contest the validity or enforcement of an  
46 income-withholding order issued in another state and received  
directly by an employer in this State by registering the order in  
48 a tribunal of this State and filing a contest to that order as  
provided in subchapter 6, or otherwise contesting the order in



2 the same manner as if the order had been issued by a tribunal of  
3 this State. Section 3153 applies to the contest.

4 **Sec. 32. 19-A MRSA §3101-F, sub-§2, ¶C**, as enacted by PL 1997,  
5 c. 669, §21, is amended to read:

6 C. The person ~~ex-agency~~ designated to receive payments in  
7 the income-withholding order or, if a person ~~ex-agency~~ is  
8 not designated, to the obligee.

10 **Uniform Comment**

12 (This is Section 506 of the Uniform Act.)

14 This section incorporates into the interstate context the law  
15 regarding defenses an employee-obligor may raise to an intrastate  
16 withholding order. Generally, States have accepted the IV-D  
17 requirement that the only viable defense is a "mistake of fact."  
18 42 U.S.C. Section 666(b)(4)(A). This apparently includes "errors  
19 in the amount of current support owed, errors in the amount of  
20 accrued arrearage or mistaken identity of the alleged obligor"  
21 while excluding "other grounds, such as the inappropriateness of  
22 the amount of support ordered to be paid, changed financial  
23 circumstances of the obligor, or lack of visitation." H.R. Rep.  
24 No. 98-527, 98th Cong., 1st Sess. 33 (1983). The latter claims  
25 must be pursued in a separate proceeding in the appropriate  
26 State, not in a UIFSA proceeding.

28 This procedure is based on the assumption that valid defenses to  
29 income withholding for child support are few and far between.  
30 Experience has shown that in relatively few cases does an  
31 employee-obligor have a complete defense, e.g., the child has  
32 died, another contingency ending the support has occurred, the  
33 order has been superseded, or there is a case of mistaken  
34 identity and the employee is not the obligor. An employee's  
35 complaint that "The child support is too high" must be ignored.

38 However, situations do arise where an employer has received  
39 multiple withholding notices regarding the obligor-employee and  
40 the same obligee. The notices may even allege conflicting amounts  
41 due, especially for payments on arrears. Additionally, many  
42 employees claim to have only learned of default orders when the  
43 withholding notice is delivered to the employer; this leads to  
44 claims that the order being enforced through income withholding  
45 was entered without personal jurisdiction over the  
46 obligor-employee.

48 The 2001 rewording of Subsection (a) affirms that a simple,  
49 efficient, and cost-effective method for an employee-alleged  
50 obligor to assert a defense is to register the withholding order

2 with a local tribunal and seek protection from that tribunal  
3 pending resolution of the contest. This may be accomplished  
4 through the obligor's employment of private counsel or by a  
5 request for services made to the child support enforcement agency  
6 of the responding State. Some States provide administrative  
7 procedures for challenging the income withholding that may  
8 provide quicker resolution of a dispute than a judicially-based  
9 registration and hearing process. In the absence of expeditious  
10 action by the employee to assert a defense and contest the direct  
11 filing of a notice for withholding, however, the employer must  
12 begin income withholding in a timely fashion.

13  
14 In contrast to the multiple-order system of RURESA, another issue  
15 the employee-obligor may raise is that the withholding order  
16 received by the employer is not based on the controlling child  
17 support order issued by the tribunal with continuing, exclusive  
18 jurisdiction, see Section 207, supra. Such a claim does not  
19 constitute a defense to the obligation of child support, but does  
20 put at issue the identity of the order to which the employer must  
21 respond. Clearly the employer is in no position to make such a  
22 decision. When multiple orders involve the same employee-obligor  
23 and child, as a practical matter resort to a responding tribunal  
24 to resolve a dispute over apportionment almost certainly is  
25 necessary.

26 **Sec. 33. 19-A MRSA §3102, sub-§1**, as enacted by PL 1995, c.  
27 694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

28  
29 **1. Documents to state information agency.** A party residing  
30 in another state or support enforcement agency seeking to enforce  
31 a support order or an income-withholding order, or both, issued  
32 by a tribunal of another state shall send the documents required  
33 for registering the order to the department.  
34

#### 35 **Uniform Comment**

36 (This is Section 507 of the Uniform Act.)  
37

38 This section authorizes summary enforcement of an interstate  
39 child support order through the administrative means available  
40 for intrastate orders. Under Subsection (a), an interested party  
41 in another State, which necessarily may include a private  
42 attorney or a support enforcement agency, may forward a support  
43 order or income-withholding order to a support enforcement agency  
44 of the responding State. The term "responding State" in this  
45 context does not necessarily contemplate resort to a tribunal as  
46 an initial step.  
47

48 Subsection (b) directs the support enforcement agency in the  
49 responding State to employ that State's regular administrative  
50

2 procedures to process an out-of-state order. Thus, a local  
3 employer accustomed to dealing with the local agency need not  
4 change its procedure to comply with an out-of-state order.  
5 Similarly, the administrative agency is authorized to apply its  
6 ordinary rules equally to both intrastate and interstate orders.  
7 For example, if the administrative hearing procedure must be  
8 exhausted for an intrastate order before a contesting party may  
9 seek relief in a tribunal, the same rule applies to an interstate  
10 order received for administrative enforcement.

11 **Sec. 34. 19-A MRSA c. 67, sub-c. 6** is amended by repealing the  
12 subchapter headnote and enacting the following in its place:

13 **SUBCHAPTER 6**

14 **REGISTRATION, ENFORCEMENT AND MODIFICATION**  
15 **OF SUPPORT ORDER**

16 **Sec. 35. 19-A MRSA §3151**, as enacted by PL 1995, c. 694, Pt.  
17 B, §2 and affected by Pt. E, §2, is amended to read:

18 **§3151. Procedure to register order for enforcement**

19 **1. Required documents and information.** The department may  
20 register a support order or an income-withholding order by  
21 forwarding the following ~~documents~~ records and information to the  
22 appropriate court in this State for registration in this State  
23 for enforcement:

24 A. A letter of transmittal to the tribunal requesting  
25 registration and enforcement;

26 B. Two copies, including one certified copy, of ~~all orders~~  
27 the order to be registered, including any modification of an  
28 order;

29 C. A sworn statement by the ~~party-seeking~~ person requesting  
30 registration or a certified statement by the custodian of  
31 the records showing the amount of any arrearages;

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

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

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

36 (3) A description and the location of property of the  
37 obligor in this State not exempt from execution; and  
38  
39  
40  
41  
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46  
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48  
49  
50

2 E. The Except as provided in section 3012, the name and  
address of the obligee and, if applicable, the agency or  
person to whom support payments are to be remitted.

4  
6 **2. File as foreign judgment.** Upon receipt of a request for  
registration, the registering tribunal shall file the order as a  
foreign judgment, together with one copy of the documents and  
8 information, regardless of their form.

10 **3. Additional petition filed at same time.** A petition or  
comparable pleading seeking a remedy that must be affirmatively  
12 sought under other law of this State may be filed at the same  
time as the request for registration, or later. The pleading  
14 must specify the grounds for the remedy sought.

16 **4. Two or more orders in effect.** If 2 or more orders are  
in effect, the person requesting registration shall:

18  
20 A. Furnish to the tribunal a copy of every support order  
asserted to be in effect in addition to the documents  
specified in this section;

22  
24 B. Specify the order alleged to be the controlling order,  
if any; and

26 C. Specify the amount of consolidated arrears, if any.

28 **5. Request for determination of controlling order.** A  
request for a determination of which order is the controlling  
30 order may be filed separately or with a request for registration  
and enforcement or for registration and modification. The person  
32 requesting registration shall give notice of the request to each  
party whose rights may be affected by the determination.

34  
36 **Uniform Comment**

(This is Section 602 of the Uniform Act.)

38  
40 Subsection (a) outlines the mechanics for registration of an  
interstate order. Substantial compliance with the requirements is  
42 expected, Twaddell v. Anderson, 523 S.E.2d 710 (N.C. App. 1999);  
In re Chapman, 973 S.W.2d 346 (Tex. App. 1998).

44 Subsection (b) confirms that the order being registered is not  
converted into an order of the responding State, but rather  
46 continues to be an order of the issuing State.

48 Subsection (c) warns that if a particular enforcement remedy must  
be specifically sought under local law, the same rule of pleading  
50 is applicable as in an interstate case. For example, if license

2 suspension or revocation is sought as a remedy for alleged  
3 noncompliance with the terms of the order, the substantive and  
4 procedural rules of the responding State apply. Whether the range  
5 of application of the remedy in the responding State is wider or  
6 narrower than that available in the issuing State is irrelevant.  
7 The responding tribunal will apply the familiar law of its State,  
8 and is neither expected nor authorized to consider the law of the  
9 issuing State. In short, the path in enforcing the order of a  
10 tribunal of another State is identical to the path followed for  
11 enforcing an order of the responding State. The authorization of  
12 a later filing to comply with local law contemplates that  
13 interstate pleadings may be liberally amended to conform to local  
14 practice.

15 The 2001 amendments adding Subsections (d) and (e) amplify the  
16 procedures to be followed when two or more child-support orders  
17 exist and registration for enforcement or modification is sought.  
18 In such instances, the requester is directed to furnish the  
19 tribunal with sufficient information and documentation so that  
20 the tribunal may make determinations of the controlling order and  
21 of the amount of consolidated arrears and interest as provided by  
22 Section 207, supra.

23 **Sec. 36. 19-A MRSA §3153**, as enacted by PL 1995, c. 694, Pt.  
24 B, §2 and affected by Pt. E, §2, is repealed and the following  
25 enacted in its place:

26 **§3153. Choice of law**

27 **1. Current payments, other obligations and arrearages under**  
28 **order.** Except as otherwise provided in subsection 4, the law of  
29 the issuing state governs:

30 A. The nature, extent, amount and duration of current  
31 payments under a registered support order;

32 B. The computation and payment of arrearages and accrual of  
33 interest on the arrearages under the support order; and

34 C. The existence and satisfaction of other obligations  
35 under the support order.

36 **2. Proceeding for arrears.** In a proceeding for arrears  
37 under a registered support order, the statute of limitation of  
38 this State or of the issuing state, whichever is for a longer  
39 period of time, applies.

40 **3. Procedures and remedies of this State.** A responding  
41 tribunal of this State shall apply the procedures and remedies of  
42 this State to enforce current support and collect arrears and  
43 interest.

2 interest due on a support order of another state registered in  
3 this State.

4 **4. Application of law of state issuing controlling order.**

5 After a tribunal of this or another state determines which order  
6 is the controlling order and issues an order consolidating  
7 arrears, if any, a tribunal of this State shall prospectively  
8 apply the law of the state issuing the controlling order,  
9 including its law on interest on arrears, on current and future  
10 support and on consolidated arrears.

11 **Uniform Comment**

12 (This is Section 604 of the Uniform Act.)

13  
14  
15  
16 This section identifies situations in which local law is  
17 inapplicable. A basic principle of UIFSA is that throughout the  
18 process the controlling order remains the order of the issuing  
19 State, and that responding States only assist in the enforcement  
20 of that order. Absent a loss of continuing, exclusive  
21 jurisdiction and a subsequent modification of the order, the  
22 order never becomes an "order of the responding State." Ultimate  
23 responsibility for enforcement and final resolution of the  
24 obligor's compliance with all aspects of the support order  
25 belongs to the issuing State. Thus, calculation of whether the  
26 obligor has fully complied with the payment of current support,  
27 arrears, and interest on arrears is the duty of the issuing  
28 State. For example, under Subsection (a) the responding State  
29 must recognize and enforce an order of the issuing State for the  
30 support of a child until age 21, notwithstanding the fact that  
31 the duty of support of a child ends at age 18 under the law of  
32 the responding State, see Robdau v. Commonwealth, Virginia Dept.  
33 Social Serv., 543 S.E.2d 602 (Va. App. 2001); State ex rel.  
34 Harnes v. Lawrence, 538 S.E.2d 223 (N.C. App. 2000). Similarly,  
35 the law of the issuing State governs whether a payment made for  
36 the benefit of a child, such as a Social Security benefit for a  
37 child of a disabled obligor, should be credited against the  
38 obligor's child support obligation. The amendments of 2001 to  
39 Subsection (a) are intended to clarify the range of subjects that  
40 are governed by the choice of law rules established in this  
41 section.

42  
43 Subsection (b) contains another choice of law provision that may  
44 diverge from local law. In situations in which the statutes of  
45 limitation differ from State to State, the statute with the  
46 longer term is to be applied. Attorney General v. Litten, 999  
47 S.W.2d 74 (Tex. App. 1999). In interstate cases, arrearages often  
48 will have accumulated over a considerable period of time before  
49 enforcement is perfected. The rationale for this exception to the  
50 general rule is that the obligor should not gain an undue benefit

2 from the choice of residence if the forum State has a shorter  
3 statute of limitations for arrearages than does the controlling  
4 order State. On the other side of the coin, i.e., the forum has a  
5 longer statute of limitations, the obligor will be treated in an  
6 identical manner as all other obligors in that State.

7 Subsection (c) mandates that local law controls with regard to  
8 enforcement procedures. For example, if the issuing State has  
9 enacted a wide variety of license suspension or revocation  
10 statutes, while the responding State has a much narrower list of  
11 licenses subject to suspension or revocation, local law prevails.

12 Subsection (d) may appear to state another truism—the law of the  
13 State that issued the controlling order is superior with regard  
14 to the terms of the support order itself. However, the last  
15 clause in the sentence provides a very important clarifying  
16 provision; that is, the law of the issuing State is to be applied  
17 to the consolidated arrears, even if the support orders of other  
18 States contributed a portion to those arrears.

19 In sum, the local tribunal applies its own familiar procedures to  
20 enforce a support order, but it is clearly enforcing an order of  
21 another State and not an order of the forum.

22 **Sec. 37. 19-A MRSA §3201.** as enacted by PL 1995, c. 694, Pt.  
23 B, §2 and affected by Pt. E, §2, is amended to read:

24 **§3201. Notice of registration of order**

25 **1. Time and method of notice.** When a support order or  
26 income-withholding order issued in another state is registered,  
27 the registering tribunal shall notify the nonregistering party.  
28 Notice must be given by first class, certified or registered mail  
29 or by any means of personal service authorized by the law of this  
30 State. The notice must be accompanied by a copy of the  
31 registered order and the documents and relevant information  
32 accompanying the order.

33 **2. Contents of notice.** The A notice must inform the  
34 nonregistering party:

35 A. That a registered order is enforceable as of the date of  
36 registration in the same manner as an order issued by a  
37 tribunal of this State;

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

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

8 D. Of the amount of any alleged arrearages.

10 **3. Notice if 2 or more orders.** If the registering party  
asserts that 2 or more orders are in effect, a notice must also:

12 A. Identify the 2 or more orders and the order alleged by  
14 the registering person to be the controlling order and the  
consolidated arrears, if any;

16 B. Notify the nonregistering party of the right to a  
18 determination of which order is the controlling order;

20 C. State that the procedures provided in subsection 2 apply  
22 to the determination of which order is the controlling  
order; and

24 D. State that failure to contest the validity or  
26 enforcement of the order alleged to be the controlling order  
in a timely manner may result in confirmation that the order  
28 is the controlling order.

30 **4. Notice of income-withholding order.** Upon registration  
of an income-withholding order for enforcement, the registering  
32 tribunal shall notify the obligor's employer pursuant to chapter  
65, subchapter 4.

34 **Uniform Comment**

36 (This is Section 605 of the Uniform Act.)

38 Sections 605-608 provide the procedure for the nonregistering  
party to contest registration of an order, either because the  
40 order is allegedly invalid, superseded, or no longer in effect,  
or because the enforcement remedy being sought is opposed by the  
42 nonregistering party.

44 Subsections (a) and (b) direct that the nonregistering party be  
fully informed of the effect of registration. After such notice  
46 is given, absent a successful contest by the nonregistering  
party, the order will be confirmed and future contest will be  
48 precluded.



2 Subsection (c), with new text in 2001, is the correlative to  
3 Section 602(d) and (e) regarding the notice to be given to the  
4 nonregistering party if a controlling order determination must be  
5 made because of the existence of two or more child-support  
6 orders. The petitioner requesting this affirmative relief is  
7 directed to identify the order alleged to be controlling under  
8 Section 207, supra. If the nonregistering party does not contest  
9 this allegation, either by default or agreement, the order  
10 identified as controlling will be confirmed by operation of law  
11 by the following section.

12 Relettered Subsection (d) states the obvious; the obligor's  
13 employer must also be notified if income is to be withheld.

14 **Sec. 38. 19-A MRSA §3203, sub-§1, ¶¶F and G**, as enacted by PL  
15 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, are amended to  
16 read:

17 F. Full or partial payment has been made; ~~or~~

18 G. The statute of limitation under section 3153 precludes  
19 enforcement of some or all of the alleged arrearages; ~~or~~

20 **Sec. 39. 19-A MRSA §3203, sub-§1, ¶H** is enacted to read:

21 H. The alleged controlling order is not the controlling  
22 order.

#### 23 Uniform Comment

24 (This is Section 607 of the Uniform Act.)

25 Subsection (a) places the burden on the nonregistering party to  
26 assert narrowly defined defenses to registration of a support  
27 order. The 2001 amendment added an obvious defense that was  
28 inadvertently omitted from the original list of defenses. In a  
29 multiple order situation, if the nonregistering party contests  
30 the allegation regarding the controlling order, either because it  
31 allegedly has not been registered or because another order has  
32 been misidentified as such, the nonregistering party may defend  
33 against enforcement of another order by asserting the existence  
34 of a controlling order. Presumably the defense must be  
35 substantiated by registration of the other alleged controlling  
36 order to be effective.

37 If the obligor is liable for current support, in the absence of a  
38 valid defense under Subsection (b) the registering tribunal must  
39 enter an order to enforce that obligation. State Dept. of Revenue  
40 ex rel. Rochell v. Morris, 736 So. 2d 41 (Fla. App. 1999);  
41 Welsher v. Rager, 491 S.E.2d 661 (N.C. App. 1997); Cowan v.

2 Moreno, 903 S.W.2d 119 (Tex. App.--Austin 1995). Proof of  
4 arrearages must result in enforcement; under the Bradley  
6 Amendment, 42 U.S.C. Section 666(a)(10), all States are required  
to treat child support payments as final judgments as they come  
due (or lose federal funding). Therefore, such arrearages are not  
subject to retroactive modification.

8 Subsection (c) provides that failure to successfully contest a  
10 registered order requires the tribunal to confirm the validity of  
the registered order. Although the statute is silent on the  
12 subject, it seems likely that res judicata requires that both the  
registering and nonregistering party who fail to register the  
14 "true" controlling order will be estopped from subsequently  
collaterally attacking the confirmed order on the basis that the  
unmentioned "true order should have been confirmed instead."

16  
18 **Sec. 40. 19-A MRSA §3252**, as enacted by PL 1995, c. 694, Pt.  
B, §2 and affected by Pt. E, §2, is amended to read:

20 **§3252. Effect of registration for modification**

22 A tribunal of this State may enforce a child support order  
24 of another state registered for purposes of modification in the  
same manner as if the order had been issued by a tribunal of this  
26 State, but the registered order may be modified only if the  
requirements of section 3253, 3255 or 3257 have been met.

28 **Uniform Comment**

30 (This is Section 610 of the Uniform Act.)

32 An order registered for purposes of modification may be enforced  
34 in the same manner as an order registered for purposes of  
enforcement. But, the power of the forum tribunal to modify a  
36 child-support order of another tribunal is limited by the  
specific factual preconditions set forth in Sections 611, 613,  
and 615.

38  
40 **Sec. 41. 19-A MRSA §3253**, as amended by PL 1997, c. 669, §22,  
is repealed and the following enacted in its place:

42 **§3253. Modification of child support order of another state**

44 **1. Modification of order issued in another state.** If  
46 section 3255 does not apply, except as otherwise provided in  
section 3257, a tribunal of this State upon petition may modify a  
48 child support order issued in another state that has been  
registered in this State if, after notice and hearing, the  
tribunal finds that:

2           A. The following requirements are met:

4                   (1) Neither the child, nor the obligee who is an  
6                   individual, nor the obligor resides in the issuing  
8                   state;

10                   (2) A petitioner, who is either a resident or a  
12                   nonresident of this State, seeks modification; and

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

18           B. This State is the state of residence of the child or a  
20           party who is an individual, the child or the party is  
22           subject to the personal jurisdiction of the tribunal and all  
24           of the parties who are individuals have filed consents in a  
26           record in the issuing tribunal for a tribunal of this State  
28           to modify the support order and assume continuing, exclusive  
30           jurisdiction.

32           **2. Modification; enforcement and satisfaction.**

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

42           **3. No modification.** Except as provided in section 3257, a  
44           tribunal of this State may not modify any aspect of a child  
46           support order that may not be modified under the law of the  
48           issuing state, including the duration of the obligation of  
50           support. If 2 or more tribunals have issued child support orders  
52           for the same obligor and same child, the order that controls and  
54           must be recognized under section 2967 establishes the aspects of  
56           the child support order that are nonmodifiable.

58           **3-A. Issuing state's law governs.** In a proceeding to  
60           modify a child support order, the law of the state that is  
62           determined to have issued the initial controlling order governs  
64           the duration of the obligation of support. The obligor's  
66           fulfillment of the duty of support established by that order  
68           precludes imposition of a further obligation of support by a  
70           tribunal of this State.

72           **4. Modification order; continuing, exclusive jurisdiction.**  
74           Upon issuance of an order by a tribunal of this State modifying a  
76           child support order issued in another state, the tribunal of this  
78           State becomes the tribunal of continuing, exclusive jurisdiction.

80                                    Uniform Comment

(This is Section 611 of the Uniform Act.)

2  
4 Under the procedure established by RURESA, after a support order  
6 was registered for the purpose of enforcement it was treated as  
8 if it had originally been issued by the registering tribunal.  
10 Most States interpreted these registration provisions as also  
12 authorizing prospective "modification" of the registered order.  
14 However, except in circumstances in which both States had the  
16 same version of RURESA and the formalities were scrupulously  
18 followed, the registering tribunal did not have the legal  
20 authority to replace the original order with its own order. In  
22 short, most often the purported modification in essence  
24 established a new obligation. In sum, by its very terms RURESA  
26 contemplated, or even encouraged, the existence of multiple  
28 support orders, none of which were directly related to any of the  
others. Although the issuing tribunal under RURESA retained a  
version of continuing, exclusive jurisdiction to modify its own  
order, that power was not exclusive. The typical scenario of  
those days was that an obligee would seek assistance from a local  
court, which would determine a duty of support existed and  
forward a certificate and order and petition to a responding  
court. The subsequent proceeding in the responding State would  
bring the obligor before the court. The obligor typically sought  
modification of the support obligation (which almost always was  
not being paid) in a forum which presented him with the "hometown  
advantage." Thus arose the common practice of the issuance of a  
new, lower child-support order.

30 Under UIFSA, as long as the issuing State has continuing,  
32 exclusive jurisdiction over its child-support order, see Section  
34 205(a), supra, a registering sister State is precluded from  
36 modifying that order. Without doubt, this is the most significant  
38 departure from the multiple-order system established by the prior  
Uniform Act. However, if the issuing State no longer has a  
sufficient interest in the modification of its order under the  
factual circumstances described in Section 205(b), supra, and  
restated in this section, after registration the responding State  
may assume the power to modify the controlling order.

40 Registration is subdivided into distinct categories: registration  
42 for enforcement, for modification, or both. UIFSA is based on  
44 recognizing the truism that when an out-of-state support order is  
46 registered, the rights and duties of the parties affected have  
48 been previously litigated. Because the obligor already has had a  
50 day before an appropriate tribunal, an enforcement remedy may be  
summarily invoked. On the other hand, modification of an existing  
order presupposes a change in the rights or duties of the  
parties. The requirements for modification of a child-support  
order are much more explicit under UIFSA, which allows a tribunal  
to modify an existing child-support order of another State only

2 if certain quite limited conditions are met. First, the tribunal  
must have all the prerequisites for the exercise of personal  
4 jurisdiction required for rendition of an original support order.  
Second, one of the restricted fact situations described in  
6 Subsection (a) must be present. This section, which is a  
counterpart to Section 205(a), establishes the conditions under  
8 which the continuing, exclusive jurisdiction of the issuing  
tribunal is released.

10 Under Subsection (a)(1), before a tribunal in a new forum may  
modify the controlling order three specific criteria must be  
12 satisfied. First, the individual parties affected by the  
controlling order and the child must no longer reside in the  
14 issuing State. Second, the party seeking modification must  
register the order in a new forum, almost invariably the State of  
16 residence of the other party. A colloquial (but easily  
understood) description of this requirement is that the  
18 modification movant must "play an away game on the other party's  
home field." This rule applies to either obligor or obligee,  
20 depending on which of those parties seeks to modify. Proof of the  
fact that neither individual party nor the child continues to  
22 reside in the issuing State may be made directly in the  
registering State; no purpose would be served by requiring the  
24 petitioner to return to the original issuing State for a document  
to confirm the fact that none of the relevant persons still lives  
26 there. Third, the forum must have personal jurisdiction over the  
parties. This is supplied by the movant submitting to the  
28 personal jurisdiction of the forum by seeking affirmative relief,  
almost always coupled with the fact that the respondent resides  
30 in the forum. On rare occasion, the personal jurisdiction over  
the respondent may be supplied by other factors, see Section 201  
32 and the comment thereto, supra.

34 The policies underlying the change affected by Subsection (a)(1)  
contemplate that the issuing State no longer has an interest in  
36 exercising its continuing, exclusive jurisdiction to modify its  
order. This restriction attempts to achieve a rough justice  
38 between the parties in the majority of cases by preventing a  
litigant from choosing to seek modification in a local tribunal  
40 to the marked disadvantage of the other party. For example, an  
obligor visiting the children at the residence of the obligee  
42 cannot be validly served with citation accompanied by a motion to  
modify the support order. Even though such personal service of  
44 the obligor in the obligee's home State is consistent with the  
jurisdictional requisites of Burnham v. Superior Court, 495 U.S.  
46 604 (1990), the motion to modify does not fulfill the requirement  
of being brought by "a [petitioner] who is a nonresident of this  
48 State ." In short, the obligee is required to register the  
existing order and seek modification of that order in a State  
50 that has personal jurisdiction over the obligor other than the

2 State of the obligee's residence. Again, almost invariably this  
3 will be the State of residence of the obligor. Similarly,  
4 fairness requires that an obligee seeking to modify or modify and  
5 enforce the existing order in the State of residence of the  
6 obligor will not be subject to a cross-motion to modify custody  
7 or visitation merely because the issuing State has lost its  
8 continuing, exclusive jurisdiction over the support order. The  
9 same is true of the obligor, who also is required to make a  
10 motion to modify support in a State other than that of his or her  
11 residence. Yet another benefit is supplied by the procedure  
12 mandated in this section. The most typical case is a motion to  
13 increase child support by the obligee, the enforcement of which  
14 ultimately will primarily, if not exclusively, take place in the  
15 obligor's State of residence. Modification and enforcement in the  
16 same forum promotes efficiency.

17  
18 Several arguments sustain the jurisdictional choice made by  
19 UIFSA. First, "jurisdiction by ambush" will be avoided. That is,  
20 personal service on either the custodial or noncustodial party  
21 found within the state borders will not yield jurisdiction to  
22 modify. Thus, a parent seeking to exercise rights of visitation,  
23 delivering or picking-up the child for such visitation, or  
24 engaging in unrelated business activity in the State, will not be  
25 involuntarily subjected to protracted litigation in an  
26 inconvenient forum. The rule avoids the possible chilling effect  
27 on the exercise of parental contact with the child that the  
28 possibility of such litigation might have. Second, almost all  
29 disputes about whether the tribunal has jurisdiction will be  
30 eliminated; submission by the petitioner to the State of  
31 residence of the respondent alleviates this issue completely.  
32 Finally, because there is an existing order the primary focus  
33 will shift to enforcement, thereby curtailing to a degree  
34 unnecessary, time-consuming modification efforts. The array of  
35 enforcement procedures available administratively to support  
36 enforcement agencies may be invoked without resort to action by a  
37 tribunal, which had constituted a bottleneck under RURESA and  
38 URESA.

39  
40 There are two exceptions to the rule of Subsection (a)(1)  
41 requiring the petitioner to be a nonresident of the forum in  
42 which modification is sought. First, under Subsection (a)(2) the  
43 parties may agree that a particular forum may serve to modify the  
44 order. Second, Section 613, *infra*, applies if all parties have  
45 left the original issuing State and now reside in the same new  
46 forum State. Subsection (a)(2), which authorizes the parties to  
47 terminate the continuing, exclusive jurisdiction of the issuing  
48 State by agreement, is based on several implicit assumptions.  
49 First, the subsection applies even if the issuing tribunal has  
50 continuing, exclusive jurisdiction because one of the parties or  
the child continues to reside in that State. Subsection (a)(2)

2 also is applicable if the individual parties and the child no  
3 longer reside in the issuing State, but agree to submit the  
4 modification issue to a tribunal in the petitioner's State of  
5 residence. Also implicit in a shift of jurisdiction over the  
6 child-support order is that the agreed-upon tribunal must have  
7 subject matter jurisdiction and personal jurisdiction over at  
8 least one of the parties or the child, and that the other party  
9 submits to the personal jurisdiction of that forum. In short,  
10 UIFSA does not contemplate that absent parties can agree to  
11 confer jurisdiction on a tribunal without a nexus to the parties  
12 or the child. But if the other party agrees, either the obligor  
13 or the obligee may seek assertion of jurisdiction to modify by a  
14 tribunal of the State of residence of either party.

15  
16 The requirements of Subsection (a) are demonstrated to the  
17 tribunal being asked to assume continuing, exclusive  
18 jurisdiction. No action to transfer, surrender, or otherwise  
19 participate is required or anticipated by the original  
20 order-issuing tribunal. The Act does not grant discretion to  
21 refuse to yield jurisdiction to the issuing tribunal; nor does it  
22 extend discretion to refuse to accept jurisdiction to the  
23 assuming tribunal when the statutory requisites are met. However,  
24 there is a distinction between the processes involved under  
25 Subsection (a)(1) and (a)(2). Once the requirements of (a)(1) or  
26 Section 613 have been met for assumption of jurisdiction, the  
27 assuming jurisdiction acts on the modification and then notifies  
28 the tribunal whose order has been replaced by the order of the  
29 assuming tribunal, see Section 614, infra. In contrast, for a  
30 tribunal of another State to assume modification jurisdiction  
31 under Subsection (a)(2) it is necessary that the individual  
32 parties first agree in a record to submit modification of child  
33 support to that tribunal and file their agreement with the  
34 issuing tribunal. Thereafter they may then proceed to petition  
35 the assuming tribunal to take jurisdiction.

36 Modification of child support under Subsections (a)(1) and (a)(2)  
37 is distinct from custody modification under the federal Parental  
38 Kidnapping Prevention Act, 42 U.S.C. Section 1738A, which  
39 provides that the court of continuing, exclusive jurisdiction may  
40 "decline jurisdiction." Similar provisions are found in the  
41 UCCJA, Section 14. In those statutes the methodology for the  
42 declination of jurisdiction is not spelled out, but rather is  
43 left to the discretion of possibly competing courts for  
44 case-by-case determination. The privilege of declining  
45 jurisdiction, thereby creating the potential for a vacuum, is not  
46 authorized under UIFSA, see Rosen v. Lantos, 938 P.2d 729, 734  
47 (N.M. App. 1997). Once a controlling initial child-support order  
48 is established under UIFSA, at all times thereafter there is an  
49 existing order in effect to be enforced. Even if the issuing  
50 tribunal no longer has continuing, exclusive jurisdiction, its

2 order remains fully enforceable until a tribunal with  
modification jurisdiction issues a new order in conformance with  
3 this article.

4  
5 The degree to which the new standards of one tribunal with  
6 continuing, exclusive jurisdiction has been accepted is  
illustrated by comparing UIFSA to the UNIFORM CHILD CUSTODY  
7 JURISDICTION ACT, Sections 12-14, and UNIFORM CHILD CUSTODY  
8 JURISDICTION AND ENFORCEMENT ACT Sections 201-202. The UCCJA  
9 provides general principles for the judicial determination of an  
10 appropriate fact situation for subsequent modification of an  
11 existing custody order by another court. In contrast, UIFSA  
12 establishes a set of "bright line" rules which must be met before  
13 a tribunal may modify an existing child-support order. The intent  
14 is to eliminate multiple support orders to the maximum extent  
15 possible consistent with the principle of continuing, exclusive  
16 jurisdiction that pervades the Act. The UCCJEA borrows heavily,  
17 but not identically, from UIFSA. Both UIFSA and UCCJEA seek a  
18 world in which there is but one-order-at-a-time for child support  
19 and custody and visitation. Both have similar restrictions on the  
20 ability of a tribunal to modify the existing order. The major  
21 difference between the two acts results from the fact that the  
22 basic jurisdictional nexus of each is founded on different  
23 consideration. UIFSA has its focus on the personal jurisdiction  
24 necessary to bind the obligor to payment of a child-support  
25 order. UCCJEA places its focus on the factual circumstances of  
26 the child, primarily the "home State" of the child; personal  
27 jurisdiction over a parent in order to bind that parent to the  
28 custody decree is not required. An example of the disparate  
29 consequences of this difference is the fact that a return to the  
30 decree State does "not reestablish" continuing jurisdiction under  
31 the custody jurisdiction Act, see comment to UCCJEA Section 202.  
32 But, under UIFSA similar facts permit the issuing State to  
33 exercise continuing, exclusive jurisdiction to modify its  
34 child-support order if at the time the proceeding is filed the  
35 issuing State "is the residence" of one of the individual parties  
36 or the child, see Section 205(a), supra.

37  
38 Subsection (b) states that when the forum has assumed  
39 modification jurisdiction because the issuing State has lost  
40 continuing, exclusive jurisdiction, the proceedings will  
41 generally follow local law with regard to modification of  
42 child-support orders.

43  
44 The 2001 amendment to Subsection (c) and the addition of  
45 Subsection (d) are designed to eliminate scattered attempts to  
46 subvert a significant policy decision made when UIFSA was first  
47 promulgated. Prior to 1993, American case law was thoroughly in  
48 chaos regarding modification of the duration of a child-support  
49 obligation when an obligor or obligee moved from one State to  
50



2 another with different ages regarding the duration of the  
3 child-support obligation. In those circumstances, whether the  
4 obligation ended, extended, or was curtailed was left almost to  
5 chance. In a RURESA proceeding, on the obligee's motion some  
6 States would increase the duration of the support obligation when  
7 the obligor resided in a State with a higher age for the child  
8 support obligation. Other States decreased the obligor's duration  
9 of child support when the obligor countered with a motion that  
10 the new RURESA support order should reflect a shorter duration of  
11 the obligation in accordance with local law. Multiple durations  
12 of the support obligation, as well as multiple support amounts,  
13 were both major problem areas addressed by UIFSA.

14 From its original promulgation UIFSA determined that the duration  
15 of child-support obligation should be fixed by the controlling  
16 order, see Robdau v. Commonwealth, Virginia Dept. Social Serv.,  
17 543 S.E.2d 602 (Va. App. 2001). If the language was  
18 insufficiently specific before the 2001, the amendments should  
19 make this decision absolutely clear. The original time frame for  
20 support is not modifiable unless the law of the issuing State  
21 provides for modification of its duration. Some courts have  
22 sought to subvert this policy by holding that completion of the  
23 obligation to support a child through age 18 established by the  
24 now-completed controlling order does not preclude the imposition  
25 of a new obligation thereafter to support the child through age  
26 21 or even to age 23 if the child is enrolled in higher  
27 education. Subsection (d) is designed to eliminate these attempts  
28 to create multiple, albeit successive, support obligations.  
29 Consistent with this principle, if a domestic violence protective  
30 order has been entered with a child-support provision that has a  
31 duration less than the general child support law of the State  
32 that issues the controlling order, the law of that State  
33 determines the maximum duration. In sum, absent tribunal error  
34 the first child-support order issued under UIFSA will invariably  
35 be the initial controlling order. The initial controlling order  
36 may be modified and replaced by a new controlling order in  
37 accordance with the terms of Sections 609-615, but the duration  
38 of the child-support obligation remains constant, even though  
39 virtually every other aspect of the original order may be  
40 changed. This is also the standard in situations involving  
41 multiple valid child-support orders--a problem that will  
42 progressively decrease over time as RURESA multiple orders expire  
43 or a determination of the initial controlling order is made under  
44 Section 207, supra. Once a controlling order is identified under  
45 these standards, the duration of the support obligation is fixed.

46 Relettered Subsection (e) provides that upon modification the new  
47 order becomes the one order to be recognized by all UIFSA States,  
48 and the issuing tribunal acquires continuing, exclusive  
49 jurisdiction. Good practice mandates that the tribunal should  
50

2 explicitly state in its order that it is assuming responsibility  
for the controlling child-support order. Neither the parties nor  
4 other tribunals should be required to speculate about the effect  
of the action taken by the tribunal under this section.

6 **Sec. 42. 19-A MRSA §3254**, as enacted by PL 1995, c. 694, Pt.  
B, §2 and affected by Pt. E, §2, is amended to read:

8 **§3254. Recognition of order modified in another state**

10 A If a child support order issued by a tribunal of this  
12 State shall recognize a modification of its earlier child support  
order is modified by a tribunal of another state that assumed  
14 jurisdiction pursuant to a ~~law substantially similar to this~~  
~~chapter and, upon request, except as otherwise provided in this~~  
16 ~~chapter,~~ shall the Uniform Interstate Family Support Act, a  
tribunal of the State:

18 **1. Enforce amounts accruing before modification.** ~~Enforcee~~  
20 May enforce the order that was modified only as to ~~amounts~~  
arrears and interest accruing before the modification;

22 **2. ~~Enforce nonmodifiable aspects.~~** ~~Enforce only~~  
24 ~~nonmodifiable aspects of that order;~~

26 **3. Relief for violations before modification.** ~~Provide~~  
28 either May provide appropriate relief only for violations of ~~that~~  
its order that occurred before the effective date of the  
30 modification; and

32 **4. Recognize modifying order.** ~~Recognize~~ Shall recognize  
the modifying order of the other state, upon registration, for  
34 the purpose of enforcement.

36 **Uniform Comment**

(This is Section 612 of the Uniform Act.)

38 A key aspect of UIFSA is the deference to the controlling  
40 child-support order of a sister State demanded from a tribunal of  
the forum State. This applies not just to the original order, but  
42 also to a modified child-support order issued by a second State  
under the standards established by Section 611, 613, and 615. For  
44 the Act to function properly, the original issuing State must  
recognize and accept the modified order as controlling, and must  
46 regard its prior order as prospectively inoperative. Because the  
UIFSA system is based on an interlocking series of state laws, it  
48 is fundamental that a modifying tribunal of one State lacks the  
authority to direct the original issuing State to release its  
50 continuing, exclusive jurisdiction. That result is accomplished

2 through the enactment of UIFSA by all States, which empowers a  
3 modifying tribunal to assume continuing, exclusive jurisdiction  
4 from the original issuing State and requires an issuing State to  
5 recognize such an assumption of jurisdiction. This explains why  
6 the U.S. Congress took the extraordinary measure in PRWORA of  
7 mandating universal passage of UIFSA 1996, as amended, see  
8 Prefatory Note.

9 The original issuing tribunal retains authority post-modification  
10 to take remedial actions directly connected to its now-modified  
11 order.

12 **Sec. 43. 19-A MRS §§3255 to 3257** are enacted to read:

13 **§3255. Jurisdiction to modify child support order of another**  
14 **state when individual parties reside in State**

15 **1. Jurisdiction to modify.** If all of the parties who are  
16 individuals reside in this State and the child does not reside in  
17 the issuing state, a tribunal of this State has jurisdiction to  
18 enforce and to modify the issuing state's child support order in  
19 a proceeding to register that order.

20 **2. Application of laws.** A tribunal of this State  
21 exercising jurisdiction under this section shall apply the  
22 provisions of subchapters 1 and 2-A, this subchapter and the  
23 procedural and substantive law of this State to the proceeding  
24 for enforcement or modification. Subchapters 3, 4, 5, 7 and 8 do  
25 not apply.

26 **Uniform Comment**

27 (This is Section 613 of the Uniform Act.)

28 A 1996 amendment explicitly dealt with the possibility that the  
29 parties and the child subject to a child-support order no longer  
30 reside in the issuing State and that the individual parties have  
31 moved to the same new State. This section makes it clear that,  
32 when the issuing State no longer has continuing, exclusive  
33 jurisdiction to modify its order, a tribunal of the State of  
34 mutual residence of the individual parties has jurisdiction to  
35 modify the child-support order and assume continuing, exclusive  
36 jurisdiction. Although the individual parties must reside in the  
37 forum State, there is no requirement that the child must also  
38 reside in the forum State (although the child must have moved  
39 from the issuing State).

40 Finally, because modification of the child-support order when all  
41 parties reside in the forum is essentially an intrastate matter,  
42 Subsection (b) withdraws authority to apply most of the  
43

2 substantive and procedural provisions of UIFSA, i.e., those found  
4 in the Act other than in Articles 1, 2, and 6. Note, however,  
6 that the provision in Section 611(c) forbidding modification of  
8 nonmodifiable aspects of the controlling order applies. For  
10 example, the duration of the support obligation remains fixed by  
12 the original controlling order despite the subsequent residence  
of all parties in a new State. The fact that the State of the new  
controlling order has a different duration of for child support  
is specifically declared to be irrelevant by UIFSA, see Section  
611, supra. Note that the even-handed approach of the Act is  
sustained; neither an increase nor a decrease in the duration in  
the obligation of child support is permitted.

14 **§3256. Notice to issuing tribunal of modification**

16 Within 30 days after issuance of a modified child-support  
18 order, the party obtaining the modification shall file a  
20 certified copy of the order with the issuing tribunal that had  
22 continuing, exclusive jurisdiction over the earlier order, and in  
24 each tribunal in which the party knows the earlier order has been  
26 registered. A party who obtains the order and fails to file a  
certified copy is subject to appropriate sanctions by a tribunal  
in which the issue of failure to file arises. The failure to file  
does not affect the validity or enforceability of the modified  
order of the new tribunal having continuing, exclusive  
jurisdiction.

28 **Uniform Comment**

30 (This is Section 614 of the Uniform Act.)

32 This stand-alone provision is designed to clarify the  
34 organization of the Act; it states the crucial proposition that  
36 the prevailing party must inform the original issuing tribunal  
38 about its loss of continuing, exclusive jurisdiction over its  
40 child-support order. Thereafter, the original tribunal may not  
42 modify, or review and adjust, the amount of child support. Notice  
to the issuing tribunal and other affected tribunals that the  
continuing, exclusive jurisdiction of the former controlling  
order has been modified is crucial to avoid the confusion and  
chaos of the multiple-order system UIFSA is designed to replace.

44 Additionally, the tribunal has authority to impose sanctions on a  
46 party who fails to comply with the requirement to give notice of  
48 a modification to all interested tribunals. Note, however, that  
failure to notify a displaced tribunal of a modification of its  
order does not affect the validity of the modified order.

50 **§3257. Jurisdiction to modify child support order of foreign**  
**country or political subdivision**



2 particular-child-or-to-determine-that-a-respondent-is-a-parent-of  
that-child.

4 ~~2.--Law-applied.--In-a-proceeding-to-determine-parentage,-a~~  
~~responding-tribunal-of-this-State-shall-apply-the-procedural-and~~  
6 ~~substantive-laws-of-this-State,-including-provisions-for-bleed-or~~  
~~tissue-typing-tests,-and-the-rules-of-this-State-on-choiee-of-law.~~

8  
10 **Uniform Comment**

12 (This is Section 616 of the Uniform Act.)

14 This article authorizes a "pure" parentage action in the  
interstate context, *i.e.*, an action not joined with a claim for  
16 support. Either the mother or a man alleging himself to be the  
father of a child may bring such an action. Typically, an action  
18 to determine parentage across state lines will also seek to  
establish a support order under the Act, see Section 401. An  
20 action to establish parentage under UIFSA is to be treated  
identically to such an action brought in the responding State.  
22 Note that in a departure from the rest of this Act, the term  
"tribunal" is replaced by "court." Although in the several States  
24 there are various combinations of judicial and administrative  
entities that are authorized to establish, enforce, and modify  
child-support orders, the UNIFORM PARENTAGE ACT (2000) restricts  
26 parentage determinations to "a court," *see* UPA (2000) Section  
104. The view that only a judicial officer should determine  
28 parentage is based on what the Conference believes is sound  
public policy.

30  
32 **Sec. 45. 19-A MRSA §3352, sub-§2,** as enacted by PL 1995, c.  
694, Pt. B, §2 and affected by Pt. E, §2, is amended to read:

34 **2. Criminal charge in another state.** If, under this  
chapter or a law substantially similar to this chapter, ~~the~~  
36 ~~Uniform-Reciprocal-Enforcement-of-Support-Act-or-the-Revised~~  
~~Uniform-Reciprocal-Enforcement-of-Support-Act,~~ the governor of  
38 another state makes a demand that the Governor surrender an  
individual charged criminally in that state with having failed to  
40 provide for the support of a child or other individual to whom a  
duty of support is owed, the Governor may require a prosecutor to  
42 investigate the demand and report whether a proceeding for  
support has been initiated or would be effective. If it appears  
44 that a proceeding would be effective but has not been initiated,  
the Governor may delay honoring the demand for a reasonable time  
46 to permit the initiation of a proceeding.

48 **Uniform Comment**

50 (This is Section 802 of the Uniform Act.)

2 This section has not undergone significant change since 1968.  
3 Interstate rendition remains the last resort for support  
4 enforcement, in part because a governor may exercise considerable  
5 discretion in deciding whether to honor a demand for rendition of  
6 an obligor.

8 **Sec. 46. 19-A MRSA §3401**, as enacted by PL 1995, c. 694, Pt.  
9 B, §2 and affected by Pt. E, §2, is amended to read:

10 **§3401. Uniformity of application and construction**

12 ~~This chapter must be applied and construed to effectuate its~~  
13 ~~general purpose to make uniform~~ In applying and construing this  
14 Act, consideration must be given to the need to promote  
15 uniformity of the law with respect to the its subject of this  
16 chapter matter among states enacting that enact it.  
17

18

20 **SUMMARY**

22 This bill incorporates into Maine law the 1996 and 2001  
23 amendments to the Uniform Interstate Family Support Act. Details  
24 of the changes are included in the Prefatory Note and the Uniform  
Comments that are included.