

DRAFT  
FOR DISCUSSION ONLY

# AMENDMENTS TO UNIFORM INTERSTATE FAMILY SUPPORT ACT (2001)

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NATIONAL CONFERENCE OF COMMISSIONERS  
ON UNIFORM STATE LAWS

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Interim Draft, November 2007

*Reporter's note. The provisions of UIFSA 2001 set forth below are identified as follows:*

Regular Roman typeface = existing language, UIFSA 2001

**Bold typeface only—current UIFSA language of international interest**

**Bold underscore—suggested new language**

**~~Bold strikethrough—suggested deletions~~**

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November 10, 2007

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1 ARTICLE 1

2 GENERAL PROVISIONS

3  
4 SECTION 102. DEFINITIONS. In this [Act]:

5 **(1) [“Application” means a request by one Central Authority for assistance under**  
6 **the Convention from another Central Authority in the form and content as prescribed by**  
7 **the Convention. ]**

8 *Reporter’s note. The Convention employs the term “application” in the manner specified*  
9 *in the above struck-through definition. UIFSA uses the term in an entirely different way. The*  
10 *activities between the Central Authorities are not included in the proposed UIFSA amendments*  
11 *because those activities do not involved judicial or administrative proceedings in “a tribunal or*  
12 *agency of this State” to establish, enforce, or modify support orders. When necessary the terms*  
13 *“[petition]” or “request for services” are substituted in the proposed amendments to UIFSA for*  
14 *the “application” process of the Convention.*

15  
16 (2) “Child” means an individual, whether over or under the age of majority, who is or is  
17 alleged to be owed a duty of support by the individual’s parent or who is or is alleged to be the  
18 beneficiary of a support order directed to the parent.

19 (3) “Child-support order” means a support order for a child, including a child who has  
20 attained the age of majority under the law of the issuing State.

21 **(4) “Central authority” means [State, HHS, ACF, OCSE], the designated federal**  
22 **agency, and also the state-based IV-D agency in each State designated by the federal**  
23 **agency to perform the duties assigned to Central Authorities in the Convention on the**  
24 **International Recovery of Child Support and Other Forms of Family Maintenance.**

25 **(5) “Contracting State” means [the United States, which ratified the Convention**  
26 **effective [date]], and a foreign country which has ratified, or acceded to, the Convention.**

27 **(6) “Convention” means the Convention on the International Recovery of Child**

1 **Support and Other Forms of Family Maintenance, done at The Hague on [date].**

2 **(7) “Direct request for services” means a [petition] regarding support filed by an**  
3 **individual residing in a foreign country made directly to a tribunal of this State, commonly**  
4 **denominated as a “direct application” in an international context;**

5 *Reporter’s note. The Convention employs the term “direct application” in the manner*  
6 *specified. Other than in new Article 7, UIFSA consistently refers to a [petition] to convey the*  
7 *activity of requesting relief from a tribunal.*

8  
9 (8) “Duty of support” means an obligation imposed or imposable by law to provide  
10 support for a child, spouse, or former spouse, including an unsatisfied obligation to provide  
11 support.

12 **(9) “Foreign country” means a foreign nation, and includes a political subdivision**  
13 **that exercises jurisdiction over support orders, which:**

14 (A) has been declared to be a foreign reciprocating country or political  
15 subdivision under federal law;

16 (B) has established a reciprocal arrangement for child support with this State as  
17 provided in Section 308;

18 [(C) has enacted a law or established procedures for the issuance and enforcement  
19 of support orders which are substantially similar to the procedures under this [Act];]or

20 **(D) [is a signatory to] [has ratified or acceded to] the Convention [which the**  
21 **United States Senate ratified] [cite date and P.L.].]**

22 *Reporter’s note. The proposed addition of these stand-alone definitions of iterations of*  
23 *“foreign country and “foreign tribunal” are to be read in conjunction with the prior definition of*  
24 *“State,” infra, which under certain circumstances declared a foreign country or political*  
25 *subdivision to be a “State.” Defining a foreign country or a political subdivision thereof, e.g.*  
26 *Canadian province, as a “State” may be traced back to 1968, where this approach first*  
27 *appeared in the Revised Uniform Reciprocal Enforcement of Support Act (RURESA). In*  
28 *retrospect this probably was a step too far. It seems clear that the goal was to enforce an*



1 international support order in the same manner as accorded to support orders from a sister  
2 state.

3  
4 *At that time, or indeed at any time since, there has not been any suggestion that orders of*  
5 *a foreign country are entitled to application of the Full Faith and Credit Clause. To do so would*  
6 *require constitutional analysis where only statutory issues are involved. Moreover, asserting that*  
7 *a foreign order be treated “equally” to a sister state order could well result in a manifestly*  
8 *unfair decision. For example, reading Sections 611 and 615 strictly, modification of a foreign*  
9 *child support should be refused under Section 611 if Section 615 is inapplicable, such as when*  
10 *the obligee-petitioner continues to reside in the issuing foreign country, which does modify its*  
11 *orders. Such application of Section 611 in the State where the obligor resides would frustrate*  
12 *application of local guidelines that recognize a greatly increased obligation and ability to pay.*

13  
14 *The amended definition of “State,” infra, is designed to eliminate the fiction that a*  
15 *foreign country can be a U.S. State, and to clarify and implement the purpose of the Act to*  
16 *enforce an international order under state law. If the new convention is ratified by the Senate,*  
17 *the federal preemption of the issue via the treaty clause will be sufficient to accomplish that goal,*  
18 *U. S. Const. Art. VI., cl. 2. But, additional state statutory enforcement should be added to make*  
19 *the terms of the Hague Convention more accessible to bench and bar. Further, UIFSA can*  
20 *supply answers to questions the new convention does not ask.*

21  
22 *An almost equally intractable problem is presented by the fact that the term “foreign*  
23 *order” often means an order from whatever source, and more often relates to an order of a sister*  
24 *State. Ultimately it will be best to avoid the term “foreign order,” and refer to “an order of a*  
25 *foreign tribunal. ” Although somewhat awkward, that terminology is unambiguous.*

26  
27 **(10) “Foreign tribunal” means a court, administrative agency, or quasi-judicial**  
28 **entity of a foreign country authorized to establish, enforce, or modify support orders or to**  
29 **determine parentage, commonly denominated a “competent authority” or “administrative**  
30 **authority” in an international context.**

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

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

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

(14) “Initiating State” means a State from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding State under this [Act] or a law or procedure substantially similar to this [Act], **commonly denominated as a “requesting State” in international maintenance orders.**

(15) “Initiating tribunal” means the authorized tribunal in an initiating State.

(16) “Issuing State” means the State in which a tribunal issues a support order or renders a judgment determining parentage.

(17) “Issuing tribunal” means the tribunal that issues a support order or renders a judgment determining parentage.

(18) “Law” includes decisional and statutory law and rules and regulations having the force of law.

**[(19) “Maintenance” means a support order rendered by a foreign tribunal; such an order may encompass support for an extended family relationship other than parent-child, or spouse or former spouse.]**

*Reporter’s note. The Convention employs the term “maintenance” with the identical meaning as the “support order” in UIFSA. For ease of understanding, the familiar terminology is continued for U.S. bench, bar, and IV-D agencies.*

(20) “Obligee” means:

(A) an individual to whom a duty of support is or is alleged to be owed or in

1 whose favor a support order has been issued or a judgment determining parentage has been  
2 rendered;

3 (B) a State or political subdivision to which the rights under a duty of support or  
4 support order have been assigned or which has independent claims based on financial assistance  
5 provided to an individual obligee; ~~or~~

6 (C) an individual seeking a judgment determining parentage of the individual's  
7 child; or

8 **(D) an individual or entity commonly denominated as a "creditor" in**  
9 **international maintenance orders.**

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

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

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

13 (C) who is liable under a support order; or

14 **(D) who is commonly denominated as a "debtor" in international**  
15 **maintenance orders.**

16 (22) "Person" means an individual, corporation, business trust, estate, trust, partnership,  
17 limited liability company, association, joint venture, government, governmental subdivision,  
18 agency, or instrumentality, public corporation, or any other legal or commercial entity.

19 (23) "Record" means information that is inscribed on a tangible medium or that is stored  
20 in an electronic or other medium and is retrievable in perceivable form.

21 (24) "Register" means to [record; file] a support order or judgment determining parentage  
22 in the **appropriate tribunal of this State for the recording or filing of a support order or**  
23 **judgment of another State or foreign tribunal** ~~[appropriate location for the recording or filing~~

of foreign judgments or support orders generally or foreign support orders specifically].

*Reporter's note. The terms "foreign order" or "foreign judgment" are used ambiguously in the original definition, and throughout the [Act]. The sense of the usage in UIFSA seems to be "out-of-state, rather than "out-of-country." If an international construction is intended, the text is "foreign country or political subdivision." After ratification of the Convention, such ambiguity must be eliminated.*

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

(26) "Responding State" means a State in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating State under this [Act] or a law or procedure substantially similar to this [Act],

(27) "Responding tribunal" means the authorized tribunal in a responding State,  
**commonly denominated as a "requested State" in international maintenance orders.**

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

(29) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes ~~[: (A)]~~ an Indian tribe.

**~~(B) a foreign country that:~~**

**~~(i) has been declared to be a foreign reciprocating country or political subdivision under federal law;~~**

**~~(ii) has established a reciprocal arrangement for child support with this State as provided in Section 308; or~~**

**~~(iii) has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this [Act]].~~**

(30) “Support enforcement agency” means a public official or agency authorized to seek:

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

(B) establishment or modification of child support;

(C) determination of parentage; ~~or~~

(D) location of obligors or their assets; or

(E) determination of the controlling child-support order.

(31) “Support order” means

(A) a judgment, decree, 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, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney’s fees, and other relief; [or]

(B) such a judgment, decree, order, or directive commonly denominated as a “maintenance order” in an international context.

(32) “Tribunal” means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage, commonly denominated a “competent authority” or “administrative authority” in an international context.

### **SECTION 103. TRIBUNAL OF STATE.**

### **SECTION 104. REMEDIES CUMULATIVE.**

(a) Remedies provided by this [Act] are cumulative and do not affect the availability of remedies under other law, including the recognition of a support order of a **foreign tribunal** ~~[country or political subdivision]~~ on the basis of **comity**.

\*\*\*

1        *Reporter's note. Data supplied by Barry Brooks, an observer from Texas, provides*  
2 *evidence that some, if not all, IV-D agencies currently grant recognition of international*  
3 *maintenance orders through what might be described as implicit comity. A once well-recognized*  
4 *definition of the process was supplied in Hilton v. Guyot, 159 U. S. 113, 163-64 (1895),*  
5 *"Comity" means the recognition which one nation allows within its territory to the legislative,*  
6 *executive, or judicial acts of another nation, having due regard both to international duty and*  
7 *convenience, and to the rights of its own citizens, or of other persons who are under the*  
8 *protection of its laws."*

## ARTICLE 2

## JURISDICTION

## SECTION 201. BASES FOR JURISDICTION OVER NONRESIDENT.

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

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

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

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

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

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

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

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

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

(b) The bases of personal jurisdiction set forth in subsection (a) 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 **or foreign tribunal** unless the requirements of Section 611 or **Article 7 of this [Act]** ~~[615]~~ are met.

*Reporter's note. Subsection (b) solidifies the universality of the concepts of personal jurisdiction and its progeny, continuing jurisdiction and controlling orders, for tribunals of the United States. The long-arm provisions were originally written with only domestic cases in mind. If the tribunal of this State, or of another State, had personal jurisdiction over an individual residing in another State, application of local law will not be affected. Whether a foreign country will recognize and enforce an order based on the idiosyncratic nature of U.S. law is beyond the power of the tribunal or UIFSA to control. But, recognition of orders by foreign tribunals is demanded by the Convention for Contacting States if the foreign tribunal had a nexus with the parties as described in Section 201. To the extent statutory authorization for the actions described in UIFSA is required internationally, reference is made to new Article 7.*

**SECTION 202. DURATION OF PERSONAL JURISDICTION.**

**SECTION 203. INITIATING AND RESPONDING TRIBUNAL OF STATE.**

**SECTION 204. SIMULTANEOUS PROCEEDINGS.**

**SECTION 205. CONTINUING, EXCLUSIVE JURISDICTION TO MODIFY CHILD-SUPPORT ORDER.**

**SECTION 206. CONTINUING JURISDICTION TO ENFORCE CHILD-SUPPORT ORDER.**

**SECTION 207. DETERMINATION OF CONTROLLING CHILD-SUPPORT ORDER.**

**SECTION 208. CHILD-SUPPORT ORDERS FOR TWO OR MORE OBLIGES.**

**SECTION 209. CREDIT FOR PAYMENTS.**

**SECTION 210. APPLICATION OF [ACT] TO NONRESIDENT SUBJECT TO PERSONAL JURISDICTION.** A tribunal of this State exercising personal jurisdiction over a



1 nonresident in a proceeding under this [Act], or under other law of this State **or foreign country**  
2 relating to a support order [~~, or recognizing a support order of a foreign on the basis of~~  
3 ~~comity~~] may receive evidence [~~from another State~~] pursuant to Section 316, communicate with  
4 a tribunal [~~of another State~~] pursuant to Section 317, and obtain discovery through a tribunal [~~of~~  
5 ~~another State~~] pursuant to Section 318. In all other respects, Articles 3 through 6 [~~7~~] do not  
6 apply and the tribunal shall apply the procedural and substantive law of this State.

7  
8 *Reporter's note. Gathering all the provisions applicable to international cases in Article*  
9 *7 will eliminate the necessity to pick and choose when to insert the deleted text throughout the*  
10 *Act. Although chapter 2 is controlling insofar as establishing personal jurisdiction over a party*  
11 *when required in a case involving international orders, the provisions to accomplish this do not*  
12 *need to be amended in this chapter.*  
13

14 **SECTION 211. CONTINUING, EXCLUSIVE JURISDICTION TO MODIFY**  
15 **SPOUSAL-SUPPORT ORDER.**

16 (a) A tribunal of this State issuing a spousal-support order consistent with the law of this  
17 State has continuing, exclusive jurisdiction to modify the spousal-support order throughout the  
18 existence of the support obligation.

19 (b) A tribunal of this State may not modify a spousal-support order issued by a tribunal of  
20 another State **or foreign country** having continuing, exclusive jurisdiction over that order  
21 [~~under the law of that State~~].

22 (c) A tribunal of this State that has continuing, exclusive jurisdiction over a spousal-  
23 support order may serve as:

24 (1) an initiating tribunal to request a tribunal of another State to enforce the spousal-  
25 support order issued in this State; or

26 (2) a responding tribunal to enforce or modify its own spousal-support order.

1 **ARTICLE 3**

2 **CIVIL PROVISIONS OF GENERAL APPLICATION**

3

4 *Reporter's note. In my opinion, the procedure described in Article 3, Sections 301, and*  
5 *304-307, is wholly incompatible with the "application" process established in the Convention.*  
6 *Worst still, is the fact that these articles are equally passé with the actual practice between IV-D*  
7 *agencies in the U.S. The system originated in URESA/RURESA, and continued in UIFSA 1992,*  
8 *has long since been abandoned by both IV-D agencies and private counsel. It is doubtful that*  
9 *any agency, and very few if any private counsel, actually file a petition in a tribunal in the*  
10 *initiating state, which is then vetted by that court and forwarded to a tribunal in the responding*  
11 *state. It is well past time to consign that outmoded practice to history.*  
12

13 **SECTION 301. PROCEEDINGS UNDER [ACT].**

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

16 (b) An individual [petitioner] or a support enforcement agency may initiate a proceeding  
17 authorized under this [Act] by filing a [petition] in an initiating tribunal for forwarding to a  
18 responding tribunal or by filing a [petition] or a comparable pleading directly in a tribunal of  
19 another State which has or can obtain personal jurisdiction over the [respondent].

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

23 **SECTION 303. APPLICATION OF LAW OF STATE.** Except as otherwise provided  
24 in this [Act], a responding tribunal of this State shall:

25 (1) apply the procedural and substantive law generally applicable to similar proceedings  
26 originating in this State and may exercise all powers and provide all remedies available in those  
27 proceedings; and

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

#### **SECTION 304. DUTIES OF INITIATING TRIBUNAL.**

(a) Upon the filing of a [petition] authorized by this [Act], an initiating tribunal of this State shall forward the [petition] and its accompanying documents:

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

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

(b) If requested by the responding tribunal, a tribunal of this State shall issue a certificate or other document and make findings required by the law of the responding State. If the responding tribunal [State] is a foreign country ~~[or political subdivision]~~, upon request the tribunal shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding State.

*Reporter's note. The directives regarding foreign currency issues in Sections 304, 305, and 307, are specifically directed to a tribunal "of this State," and do not affect the order going to, or coming from the foreign country. Whether the introduction of the debit card should be statutorily recognized is a question for the observers.*

#### **SECTION 305. DUTIES AND POWERS OF RESPONDING TRIBUNAL.**

(a) When a responding tribunal of this State receives a [petition] or comparable pleading from an initiating tribunal or directly pursuant to Section 301(b), it shall cause the [petition] or

pleading to be filed and notify the [petitioner] where and when it was filed.

(b) A responding tribunal of this State, to the extent not prohibited by other law, may do one or more of the following:

(1) issue or enforce a support order, modify a child-support order, determine the controlling child-support order, or to determine parentage;

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

(3) order income withholding;

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

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

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

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

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

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

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

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

(12) grant any other available remedy.

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

1 is based.

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

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

7 (f) If requested to enforce a support order, arrears, or judgment or modify a support order  
8 stated in a foreign currency, a responding tribunal of this State shall convert the amount stated in  
9 the foreign currency to the equivalent amount in dollars under the applicable official or market  
10 exchange rate as publicly reported.

11 **SECTION 306. INAPPROPRIATE TRIBUNAL.** If a [petition] or comparable  
12 pleading is received by an inappropriate tribunal of this State, the tribunal shall forward the  
13 pleading and accompanying documents to an appropriate tribunal in this State or another State  
14 and notify the [petitioner] where and when the pleading was sent.

15 **SECTION 307. DUTIES OF SUPPORT ENFORCEMENT AGENCY.**

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

18 (b) A support enforcement agency of this State that is providing services to the  
19 [petitioner] shall:

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

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

23 (3) make a reasonable effort to obtain all relevant information, including

1 information as to income and property of the parties;

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

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

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

9 (c) A support enforcement agency of this State that requests registration of a child-  
10 support order in this State for enforcement or for modification shall make reasonable efforts:

11 (1) to ensure that the order to be registered is the controlling order; or

12 (2) if two or more child-support orders exist and the identity of the controlling  
13 order has not been determined, to ensure that a request for such a determination is made in a  
14 tribunal having jurisdiction to do so.

15 (d) A support enforcement agency of this State that requests registration and enforcement  
16 of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts  
17 stated in the foreign currency into the equivalent amounts in dollars under the applicable official  
18 or market exchange rate as publicly reported.

19 (e) A support enforcement agency of this State shall [issue or] request a tribunal of this  
20 State to issue a child-support order and an income-withholding order that redirect payment of  
21 current support, arrears, and interest if requested to do so by a support enforcement agency of  
22 another State pursuant to Section 319 of the Uniform Interstate Family Support Act.

23 (f) This [Act] does not create or negate a relationship of attorney and client or other

1 fiduciary relationship between a support enforcement agency or the attorney for the agency and  
2 the individual being assisted by the agency.

3 **SECTION 308. DUTY OF [STATE OFFICIAL OR AGENCY].**

4 (a) If the [appropriate state official or agency] determines that the support enforcement  
5 agency is neglecting or refusing to provide services to an individual, the [state official or agency]  
6 may order the agency to perform its duties under this [Act] or may provide those services  
7 directly to the individual.

8 (b) The [appropriate state official or agency] may determine that a foreign country ~~[or~~  
9 **political subdivision**] has established a reciprocal arrangement for child support with this State  
10 and take appropriate action for notification of the determination.

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

13 **SECTION 310. DUTIES OF [STATE INFORMATION AGENCY].**

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

16 (b) The state information agency shall:

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

20 (2) maintain a register of names and addresses of tribunals and support  
21 enforcement agencies received from other States;

22 (3) forward to the appropriate tribunal in the [county] in this State in which the  
23 obligee who is an individual or the obligor resides, or in which the obligor's property is believed

1 to be located, all documents concerning a proceeding under this [Act] received from an initiating  
2 tribunal or the state information agency of the initiating State; and

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

### 9 **SECTION 311. PLEADINGS AND ACCOMPANYING DOCUMENTS.**

10 (a) In a proceeding under this [Act], a [petitioner] seeking to establish a support order, to  
11 determine parentage, or to register and modify a support order of another State must file a  
12 [petition]. Unless otherwise ordered under Section 312, the [petition] or accompanying  
13 documents must provide, so far as known, the name, residential address, and social security  
14 numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex,  
15 residential address, social security number, and date of birth of each child for whose benefit  
16 support is sought or whose parentage is to be determined. Unless filed at the time of registration,  
17 the [petition] must be accompanied by a copy of any support order known to have been issued by  
18 another tribunal. The [petition] may include any other information that may assist in locating or  
19 identifying the [respondent].

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

### 23 **SECTION 312. NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL**



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

7 **SECTION 313. COSTS AND FEES.**

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

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

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

20 **SECTION 314. LIMITED IMMUNITY OF [PETITIONER].**

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

1 proceeding.

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

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

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

10 **SECTION 316. SPECIAL RULES OF EVIDENCE AND PROCEDURE.**

11 (a) The physical presence of a nonresident party who is an individual in a tribunal of this  
12 State is not required for the establishment, enforcement, or modification of a support order or the  
13 rendition of a judgment determining parentage.

14 (b) An affidavit, a document substantially complying with federally mandated forms, or a  
15 document incorporated by reference in any of them, which would not be excluded under the  
16 hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a  
17 party or witness residing in another State or foreign country.

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

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

1 necessary, and customary.

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

5 (f) In a proceeding under this [Act], a tribunal of this State shall permit a party or witness  
6 residing in another State **or foreign country** to be deposed or to testify under penalty of perjury  
7 by telephone, audiovisual means, or other electronic means at a designated tribunal or other  
8 location in that State. A tribunal of this State shall cooperate with tribunals of other States in  
9 designating an appropriate location for the deposition or testimony.

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

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

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

17 (j) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to  
18 establish parentage of the child.

19 **SECTION 317. COMMUNICATIONS BETWEEN TRIBUNALS.** A tribunal of this  
20 State may communicate with a tribunal of another State or foreign country [~~or political~~  
21 ~~subdivision~~] in a record, or by telephone or other means, to obtain information concerning the  
22 laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a  
23 proceeding in the **other State or foreign country** [~~or political subdivision~~]. A tribunal of this

1 State may furnish similar information by similar means to a tribunal of another State or foreign  
2 country [~~or political subdivision~~].

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

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

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

7 **SECTION 319. RECEIPT AND DISBURSEMENT OF PAYMENTS.**

8 (a) A support enforcement agency or tribunal of this State shall disburse promptly any  
9 amounts received pursuant to a support order, as directed by the order. The agency or tribunal  
10 shall furnish to a requesting party or tribunal of another State a certified statement by the  
11 custodian of the record of the amounts and dates of all payments received.

12 (b) If neither the obligor, nor the obligee who is an individual, nor the child resides in this  
13 State, upon request from the support enforcement agency of this State or another State, [the  
14 support enforcement agency of this State or] a tribunal of this State shall:

15 (1) direct that the support payment be made to the support enforcement agency in  
16 the State in which the obligee is receiving services; and

17 (2) issue and send to the obligor's employer a conforming income-withholding  
18 order or an administrative notice of change of payee, reflecting the redirected payments.

19 (c) The support enforcement agency of this State receiving redirected payments from  
20 another State pursuant to a law similar to subsection (b) shall furnish to a requesting party or  
21 tribunal of the other State a certified statement by the custodian of the record of the amount and  
22 dates of all payments received.

## ARTICLE 4

## ESTABLISHMENT OF SUPPORT ORDER

**SECTION 401. [PETITION] TO ESTABLISH SUPPORT ORDER.**

*Reporter's note. This probably is a good place to move Section 701 if there is reason to retain it.*

**SECTION ~~[701]~~ 402. PROCEEDING TO DETERMINE PARENTAGE.** A

**tribunal** [court] of this State authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage brought under this [Act] or a law or procedure substantially similar to this [Act].

## ARTICLE 5

## ENFORCEMENT OF ORDER ~~[OF ANOTHER STATE]~~ WITHOUT REGISTRATION

*Reporter's note. The UIFSA system of direct collection of income withholding from employers across State lines is not applicable to requests across international borders. Therefore, only Section 507 may be relevant for consideration in conjunction with the Convention.*

## SECTION 501. EMPLOYER'S RECEIPT OF INCOME-WITHHOLDING

### ORDER OF ANOTHER STATE.

## SECTION 502. EMPLOYER'S COMPLIANCE WITH INCOME-

**WITHHOLDING ORDER OF ANOTHER STATE.**

**SECTION 503. EMPLOYER'S COMPLIANCE WITH MULTIPLE TWO OR MORE INCOME-WITHHOLDING ORDERS.**

## SECTION 504. IMMUNITY FROM CIVIL LIABILITY.

## SECTION 505. PENALTIES FOR NONCOMPLIANCE.

**SECTION 506. CONTEST BY OBLIGOR.**

## SECTION 507. ADMINISTRATIVE ENFORCEMENT OF ORDERS.

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

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

- 1 If the obligor contests the validity or administrative enforcement of the order, the support
- 2 enforcement agency shall register the order pursuant to this [Act].

## ARTICLE 6

## REGISTRATION, ENFORCEMENT, AND MODIFICATION OF SUPPORT ORDER

## PART 1

## REGISTRATION AND ENFORCEMENT OF SUPPORT ORDER.

*Reporter's note. With selective editing, the registration and enforcement provisions in Article 6, Part 1, should conform to the provisions of the proposed maintenance convention. Directives in Sections 601, 609, and Article 7 may suffice to restrict international orders to the proper channels.*

**SECTION 601. REGISTRATION OF ORDER FOR ENFORCEMENT.** A support order or income-withholding order issued by a tribunal of another State or foreign country [~~or political subdivision~~] may be registered in this State for enforcement.

**SECTION 602. PROCEDURE TO REGISTER ORDER FOR ENFORCEMENT.**

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

- (1) a letter of transmittal to the tribunal requesting registration and enforcement;
- (2) two copies, including one certified copy, of the order to be registered, including any modification of the order;
- (3) a sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;
- (4) the name of the obligor and, if known:
  - (A) the obligor's address and social security number;
  - (B) the name and address of the obligor's employer and any other source of income of the obligor; and



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

3 (5) except as otherwise provided in Section 312, the name and address of the  
4 obligee and, if applicable, the person to whom support payments are to be remitted.

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

8 (c) A [petition] or comparable pleading seeking a remedy that must be affirmatively  
9 sought under other law of this State may be filed at the same time as the request for registration  
10 or later. The pleading must specify the grounds for the remedy sought.

11 (d) If two or more orders are in effect, the person requesting registration shall:

12 (1) furnish to the tribunal a copy of every support order asserted to be in effect in  
13 addition to the documents specified in this section;

14 (2) specify the order alleged to be the controlling order, if any; and

15 (3) specify the amount of consolidated arrears, if any.

16 (e) A request for a determination of which is the controlling order may be filed separately  
17 or with a request for registration and enforcement or for registration and modification. The  
18 person requesting registration shall give notice of the request to each party whose rights may be  
19 affected by the determination.

20 **SECTION 603. EFFECT OF REGISTRATION FOR ENFORCEMENT.**

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

23 (b) A registered order issued in another State is enforceable in the same manner and is

1 subject to the same procedures as an order issued by a tribunal of this State.

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

#### 4 **SECTION 604. CHOICE OF LAW.**

5 (a) Except as otherwise provided in subsection (d), the law of the issuing State governs:

6 (1) the nature, extent, amount, and duration of current payments under a  
7 registered support order;

8 (2) the computation and payment of arrearages and accrual of interest on the  
9 arrearages under the support order; and

10 (3) the existence and satisfaction of other obligations under the support order.

11 (b) In a proceeding for arrears under a registered support order, the statute of limitation of  
12 this State or of the issuing State, whichever is longer, applies.

13 (c) A responding tribunal of this State shall apply the procedures and remedies of this  
14 State to enforce current support and collect arrears and interest due on a support order of another  
15 State registered in this State.

16 (d) After a tribunal of this or another State determines which is the controlling order and  
17 issues an order consolidating arrears, if any, a tribunal of this State shall prospectively apply the  
18 law of the State issuing the controlling order, including its law on interest on arrears, on current  
19 and future support, and on consolidated arrears.

#### 20 **CONTEST OF VALIDITY OR ENFORCEMENT.**

21 *Reporter's note. Article 6, Part 2, seems overwritten in retrospect; the advisors and*  
22 *observers are best situated to give guidance on appropriate amendments, if any.*  
23  
24  
25

26 **proposed amendment consistent with Convention art. 20**

1           **SECTION 605. NOTICE OF REGISTRATION OF ORDER.**

2           (a) When a support order or income-withholding order issued in another State is  
3 registered, the registering tribunal shall notify the nonregistering party. The notice must be  
4 accompanied by a copy of the registered order and the documents and relevant information  
5 accompanying the order.

6           (b) A notice must inform the nonregistering party:

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

9                   (2) that a hearing to contest the validity or enforcement of the registered order  
10 must be requested within **30** ~~[20]~~ days after notice, **except the contest must be requested**  
11 **within 60 days if the party resides in a foreign country;**

12                   (3) that failure to contest the validity or enforcement of the registered order in a  
13 timely manner will result in confirmation of the order and enforcement of the order and the  
14 alleged arrearages; and

15                   (4) of the amount of any alleged arrearages.

16           (c) If the registering party asserts that two or more orders are in effect, a notice must also:

17                   (1) identify the two or more orders and the order alleged by the registering person  
18 to be the controlling order and the consolidated arrears, if any;

19                   (2) notify the nonregistering party of the right to a determination of which is the  
20 controlling order;

21                   (3) state that the procedures provided in subsection (b) apply to the determination  
22 of which is the controlling order; and

23                   (4) state that failure to contest the validity or enforcement of the order alleged to

1 be the controlling order in a timely manner may result in confirmation that the order is the  
2 controlling order.

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

6  
7 Article 20 Procedure on an application for recognition and enforcement<sup>6</sup>

8 1. Subject to the provisions of this Convention, the procedures for recognition and enforcement  
9 shall be governed by the law of the State addressed.

10 2. Where an application for recognition and enforcement of a decision has been made through  
11 Central Authorities in accordance with Chapter III, the requested Central Authority shall  
12 promptly either -

13 a) refer the application to the competent authority which shall without delay declare the decision  
14 enforceable or register the decision for enforcement; or b) if it is the competent authority take  
15 such steps itself.

16 3. In the case of a direct application to a competent authority in the requested State in accordance  
17 with Article 16(5), that authority shall without delay declare the decision enforceable or register  
18 the decision for enforcement.

19 4. A declaration or registration may be refused only for the reasons specified in [Articles 17 and  
20 19] [Article 19 a)].<sup>7</sup> At this stage neither the applicant nor the respondent is entitled to make any  
21 submissions.

22 5. The applicant and the respondent shall be promptly notified of the declaration or registration,  
23 or the refusal thereof, made under paragraphs 2 and 3 and may bring a challenge or appeal on  
24 fact and on a point of law.

25 6. A challenge or an appeal is to be lodged within 30 days of notification under paragraph 6. If  
26 the contesting party is not resident in the Contracting State in which the declaration or  
27 registration was made or refused, the challenge or appeal shall be lodged within 60 days of  
28 notification.

29 7. A challenge or appeal may be founded only on the following -

30 a) the grounds for refusing recognition and enforcement set out in Article 19;

31 b) the bases for recognition and enforcement under Article 17;

32 c) the authenticity, veracity or integrity of any document transmitted in accordance with Article  
33 21(1) a), b) or d).

34 8. A challenge or an appeal by a respondent may also be founded on the fulfilment of the debt if  
35 the recognition and enforcement was only applied for in respect of payments that fell due in the  
36 past.

37 9. The applicant and the respondent shall be promptly notified of the decision following the  
38 challenge or the appeal

39 10. Further appeal is possible only if permitted by the law of the State addressed.

40 11. Nothing in this Article shall prevent the use of simpler or more expeditious procedures.<sup>8</sup>

1           **SECTION 606. PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT**  
2 **OF REGISTERED ORDER. proposed amendment consistent with Convention art. 20**

3           (a) A nonregistering party seeking to contest the validity or enforcement of a registered  
4 order in this State shall request a hearing within 30 [20] days after notice of the registration,  
5 **except the contest must be requested within 60 days if the party resides in a foreign**  
6 **country.** The nonregistering party may seek to vacate the registration, to assert any defense to an  
7 allegation of noncompliance with the registered order, or to contest the remedies being sought or  
8 the amount of any alleged arrearages pursuant to Section 607.

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

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

14           **SECTION 607. CONTEST OF REGISTRATION OR ENFORCEMENT. proposed**  
15 **amendment consistent with Convention art7. 17, 19**

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

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

19                   (2) the order was obtained by fraud;

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

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

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

23                   (6) **the alleged amount of arrears is incorrect** [~~full or partial payment has~~]

1 ~~been made~~];

2 (7) the statute of limitation under Section 604 precludes enforcement of some or  
3 all of the alleged arrearages; or

4 (8) the alleged controlling order is not the controlling order.

5 Article 17 Bases for recognition and enforcement

6 1. A decision made in one Contracting State ("the State of origin") shall be recognised and  
7 enforced in other Contracting States if –

8 a) the respondent was habitually resident in the State of origin at the time proceedings were  
9 instituted;

10 b) the respondent has submitted to the jurisdiction either expressly or by defending on the merits  
11 of the case without objecting to the jurisdiction at the first available opportunity;

12 c) the creditor was habitually resident in the State of origin at the time proceedings were  
13 instituted;

14 d) the child for whom maintenance was ordered was habitually resident in the State of origin at  
15 the time proceedings were instituted, provided that the respondent has lived with the child in that  
16 State or has resided in that State and provided support for the child there;

17 e) except in disputes relating to maintenance obligations in respect of children, there has been  
18 agreement to the jurisdiction in writing by the parties; or

19 f) the decision was made by an authority exercising jurisdiction on a matter of personal status or  
20 parental responsibility, unless that jurisdiction was based solely on the nationality of one of the  
21 parties.

22 2. A Contracting State may make a reservation, in accordance with Article 57, in respect of  
23 paragraph 1 c), e) or f).<sup>5</sup>

24 3. A Contracting State making a reservation under paragraph 2 shall recognise and enforce a  
25 decision if its law would in similar factual circumstances confer or would have conferred  
26 jurisdiction on its authorities to make such a decision.

27 4. A Contracting State shall, if recognition of a decision is not possible as a result of a  
28 reservation under paragraph 2, and if the debtor is habitually resident in that State, take all  
29 appropriate measures to establish a decision. The preceding sentence does not apply to direct  
30 applications for recognition and enforcement under Article 16(5) unless a new application is  
31 made under Article 10(1) d).

32 5. A decision in favour of a child under the age of 18 which cannot be recognised by virtue only  
33 of a reservation under Article 17(1) c), e) or f) shall be accepted as establishing the eligibility of  
34 that child for maintenance in the requested State.

35 6. A decision shall be recognised only if it has effect in the State of origin, and shall be enforced  
36 only if it is enforceable in the State of origin.

37  
38 Article 19 Grounds for refusing recognition and enforcement

39 Recognition and enforcement of a decision may be refused –

40 a) if recognition and enforcement of the decision is manifestly incompatible with the public  
41 policy ("ordre public") of the State addressed;

42 b) if the decision was obtained by fraud in connection with a matter of procedure;

- 1 c) if proceedings between the same parties and having the same purpose are pending before an  
2 authority of the State addressed and those proceedings were the first to be instituted;  
3 d) if the decision is incompatible with a decision rendered between the same parties and having  
4 the same purpose, either in the State addressed or in another State, provided that this latter  
5 decision fulfils the conditions necessary for its recognition and enforcement in the State  
6 addressed;  
7 e) if the respondent had neither –  
8 i) proper notice of the proceedings and an opportunity to be heard, nor  
9 ii) proper notice of the decision and the opportunity to challenge it on fact and law; or  
10 f) if the decision was made in violation of Article 15.

11  
12 **SECTION 608. CONFIRMED ORDER.** Confirmation of a registered order, whether  
13 by operation of law or after notice and hearing, precludes further contest of the order with  
14 respect to any matter that could have been asserted at the time of registration.  
15

### 16 **PART 3**

#### 17 **REGISTRATION AND MODIFICATION OF CHILD-SUPPORT ORDER.**

#### 18 19 **SECTION 609. PROCEDURE TO REGISTER CHILD-SUPPORT ORDER OF** 20 **ANOTHER STATE FOR MODIFICATION.**

21 (a) A party or support enforcement agency seeking to modify, or to modify and enforce, a  
22 child-support order issued in another State shall register that order in this State in the same  
23 manner provided in Part 1 if the order has not been registered. A [petition] for modification may  
24 be filed at the same time as a request for registration, or later. The pleading must specify the  
25 grounds for modification.

26 (b) A party or support enforcement agency seeking to modify, or to modify and  
27 enforce, a child-support order issued by a foreign tribunal shall register that order in this  
28 State in the same manner provided in Part 1 if the order has not been registered.  
29 Thereafter, the modification procedure is not subject to Sections 609 through 614, but is

1 governed by Convention art. 7.

2       **SECTION 610. EFFECT OF REGISTRATION FOR MODIFICATION.** A tribunal  
3 of this State may enforce a child-support order of another State registered for purposes of  
4 modification, in the same manner as if the order had been issued by a tribunal of this State, but  
5 the registered order may be modified only if the requirements of Section 611, 613, or 615 have  
6 been met.

7       **SECTION 611. MODIFICATION OF CHILD-SUPPORT ORDER OF ANOTHER**  
8 **STATE.**

9       (a) If Section 613 does not apply, [~~except as otherwise provided in Section 615~~], upon  
10 [petition] a tribunal of this State may modify a child-support order issued in another State which  
11 is registered in this State if, after notice and hearing, the tribunal finds that:

12               (1) the following requirements are met:

13                       (A) neither the child, nor the obligee who is an individual, nor the obligor  
14 resides in the issuing State;

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

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

19               (2) this State is the State of residence of the child, or a party who is an individual  
20 is subject to the personal jurisdiction of the tribunal of this State, and all of the parties who are  
21 individuals have filed consents in a record in the issuing tribunal for a tribunal of this State to  
22 modify the support order and assume continuing, exclusive jurisdiction.

23       (b) Modification of a registered child-support order is subject to the same requirements,



1 procedures, and defenses that apply to the modification of an order issued by a tribunal of this  
2 State and the order may be enforced and satisfied in the same manner.

3 (c) ~~[Except as otherwise provided in Section 615, a]~~ A tribunal of this State may not  
4 modify any aspect of a child-support order that may not be modified under the law of the issuing  
5 State, including the duration of the obligation of support. If two or more tribunals have issued  
6 child-support orders for the same obligor and same child, the order that controls and must be so  
7 recognized under Section 207 establishes the aspects of the support order which are  
8 nonmodifiable.

9 (d) In a proceeding to modify a child-support order, the law of the State that is  
10 determined to have issued the initial controlling order governs the duration of the obligation of  
11 support. The obligor's fulfillment of the duty of support established by that order precludes  
12 imposition of a further obligation of support by a tribunal of this State.

13 (e) On the issuance of an order by a tribunal of this State modifying a child-support order  
14 issued in another State, the tribunal of this State becomes the tribunal having continuing,  
15 exclusive jurisdiction, and shall prospectively apply the law of this State regarding interest  
16 on arrears, on current and future support, and on consolidated arrears.

## 17 **SECTION 612. RECOGNITION OF ORDER MODIFIED IN ANOTHER STATE.**

18 If a child-support order issued by a tribunal of this State is modified by a tribunal of another  
19 State which assumed jurisdiction pursuant to the Uniform Interstate Family Support Act, a  
20 tribunal of this State:

21 (1) may enforce ~~the~~ its order that was modified only as to arrears and interest accruing  
22 before the modification;

23 (2) may provide ~~other~~ appropriate relief ~~only~~ for violations of ~~that~~ its order which

1 occurred before the effective date of the modification; and

2 (3) shall recognize the modifying order of the other State, upon registration, for the  
3 purpose of enforcement.

4 **SECTION 613. JURISDICTION TO MODIFY CHILD-SUPPORT ORDER OF**  
5 **ANOTHER STATE WHEN INDIVIDUAL PARTIES RESIDE IN THIS STATE.**

6 (a) If all of the parties who are individuals reside in this State and the child does not  
7 reside in the issuing State, a tribunal of this State has jurisdiction to enforce and to modify the  
8 issuing State's child-support order in a proceeding to register that order.

9 (b) A tribunal of this State exercising jurisdiction under this section shall apply the  
10 provisions of Articles 1 and 2, this article, and the procedural and substantive law of this State to  
11 the proceeding for enforcement or modification. Articles 3, 4, 5, 7, and 8 do not apply.

12 **SECTION 614. NOTICE TO ISSUING TRIBUNAL OF MODIFICATION.** Within  
13 [30] days after issuance of a modified child-support order, the party obtaining the modification  
14 shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive  
15 jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order  
16 has been registered. A party who obtains the order and fails to file a certified copy is subject to  
17 appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file  
18 does not affect the validity or enforceability of the modified order of the new tribunal having  
19 continuing, exclusive jurisdiction.

20 ~~**SECTION 615. JURISDICTION TO MODIFY CHILD-SUPPORT ORDER OF**~~  
21 ~~**FOREIGN COUNTRY OR POLITICAL SUBDIVISION.**~~

22 ~~(a) If a foreign country or political subdivision that is a State will not or may not~~  
23 ~~modify its order pursuant to its laws, a tribunal of this State may assume jurisdiction to~~

1 ~~modify the child support order and bind all individuals subject to the personal jurisdiction~~  
2 ~~of the tribunal whether or not the consent to modification of a child support order~~  
3 ~~otherwise required of the individual pursuant to Section 611 has been given or whether the~~  
4 ~~individual seeking modification is a resident of this State or of the foreign country or~~  
5 ~~political subdivision.~~

6 ~~(b) An order issued pursuant to this section is the controlling order.~~

7  
8 

<i>Reporter's note. Section 615 moved to Article 7, Section 751.</i>
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9

1  
2 **PROPOSED ARTICLE 7**

3 **ESTABLISHMENT, RECOGNITION, ENFORCEMENT, AND MODIFICATION OF**  
4 **FOREIGN SUPPORT ORDER**

5  
6 **PART 1. POLICY AND SCOPE** derived from Convention Chapters I-III

7 **SECTION 701. APPLICATION AND SCOPE OF [ARTICLE].**

8 **SECTION 702. POLICY IN EVENT OF CONFLICT OF TEXT.**

9 **SECTION 703. DUTIES OF IV-D AGENCY.** derived from Articles 4 to 9

10 **SECTION 704. AVAILABLE SERVICES.** derived from Convention Article 10

11 **SECTION 705. ACCESS TO TRIBUNAL.** derived from Article 14

12  
13 **PART 2. ESTABLISHMENT, RECOGNITION, AND ENFORCEMENT OF SUPPORT**

14 **ORDER OF FOREIGN TRIBUNAL.** derived from Chapters IV-V

15 **SECTION 721. SUPPORT ORDER OF TRIBUNAL.** derived from Article 16.

16 **SECTION 722. ESTABLISHMENT OF SUPPORT ORDER INVOLVING PARTY OR CHILD**

17 **RESIDING IN FOREIGN COUNTRY.** derived from Article 34

18 **SECTION 723. BASES FOR RECOGNITION AND ENFORCEMENT.** derived from Article 17

19 **SECTION 724. SEVERABILITY.** derived from Article 18

20 **SECTION 725. GROUNDS FOR REFUSING RECOGNITION AND ENFORCEMENT.**

21 derived from Article 19

22 **SECTION 726. LIMIT ON PROCEEDINGS.** derived from Article 15

23 **SECTION 727. PROCEDURE ON [PETITION] FOR RECOGNITION AND**

24 **ENFORCEMENT.** derived from Article 20

1 SECTION 728. ACCOMPANYING DOCUMENTS. derived from Article 21

2 SECTION 729. FINDINGS OF FACT. derived from Article 23

3 SECTION 730. NO REVIEW OF THE MERITS. derived from Article 24

4 [SECTION 731. AUTHENTIC INSTRUMENTS AND PRIVATE AGREEMENTS. derived  
5 from Article 26

6 SECTION 732. RECIPROCAL ARRANGEMENTS INVOLVING THE USE OF

7 PROVISIONAL AND CONFIRMATION ORDERS. derived from Article 27

9 PART 4. MODIFICATION OF SUPPORT ORDER INVOLVING PARTY OR CHILD

10 RESIDING IN FOREIGN COUNTRY. not derived from Convention

11 SECTION 751 [615]. [~~RECOGNITION OF~~] ESTABLISHING CHILD SUPPORT ORDER

12 INVOLVING FOREIGN TRIBUNAL WHEN MODIFICATION NOT AVAILABLE.

13 SECTION 752. RECOGNITION AND ENFORCEMENT OF MODIFICATION OF SUPPORT

14 ORDER INVOLVING PARTY OR CHILD RESIDING IN FOREIGN COUNTRY.

15 SECTION 753. MODIFICATION OF DOMESTIC CHILD SUPPORT ORDER INVOLVING

16 FOREIGN COUNTRY

18 **PART 3. ENFORCEMENT BY RESPONDING STATE. derived from Convention**

19 **Chapter V [in progress]**

20 **PART 5. GENERAL PROVISIONS. derived from Convention Chapter VII-VIII [in**

21 **progress]**

1  
2 **ARTICLE 7**

3 **DETERMINATION OF PARENTAGE**

4 **SECTION 701. PROCEEDING TO DETERMINE PARENTAGE.**

5 ~~A court of this State authorized to determine parentage of a child may serve as a~~  
6 ~~responding tribunal in a proceeding to determine parentage brought under this [Act] or a~~  
7 ~~law or procedure substantially similar to this [Act].~~

8  
9 *Reporter's note. As originally presented to the Uniform Law Conference in UIFSA 1992, Article*  
10 *7 contained a wide variety of substantive and procedural sections regarding parentage actions.*  
11 *All provisions but the single section above, as amended in 2001) below were deleted in floor*  
12 *debate, based on the argument that the Uniform Parentage Act (1973) provided the authoritative*  
13 *word on the Conference's position on the subject. The attempt to amend part of the UPA (1973)*  
14 *failed; a decade later NCCUSL promulgated a completely revised act, the Uniform Parentage*  
15 *Act (2002). Current UIFSA Section 701 should be moved to Article 4. This frees Article 7 for*  
16 *State statutes dealing with international support orders.*

17  
18 *In consideration of what to include in a new iteration of UIFSA that would assist bench*  
19 *and bar, bear in mind one crucial fact; if the new maintenance Convention is ratified, as*  
20 *applicable its language becomes substantive law for all of the States. At present, we do not know*  
21 *all of those provisions to which the United States will take a reservation. In any event, the*  
22 *language of the Convention is what it is, and will not be subject to domestic amendment by the*  
23 *ULC after Senate ratification. Indeed, the Senate's choice will be to accept all or none after the*  
24 *negotiation process in The Hague concludes. Nonetheless, a translation of treaty-English into*  
25 *UIFSA terminology is not only permissible, but in my opinion is vital to facilitate implementation*  
26 *of the Convention at ground level. This conclusion, but not the actual execution, has been*  
27 *sanctioned by William Duncan, Deputy Secretary General. of the HccH Secretariat.*

28  
29 *This is not to say the UIFSA should remain silent with regard to a support order issued*  
30 *by a foreign tribunal which is entitled to recognition and enforcement by the terms of the*  
31 *proposed Convention. For example, although the terms "modify" and "modification" are much*  
32 *employed in the text of the draft Convention, many questions go unanswered. UIFSA may*  
33 *legitimately fill these gaps.*

1 **PROPOSED ARTICLE 7**

2 **ESTABLISHMENT, RECOGNITION, ENFORCEMENT, AND MODIFICATION OF**  
3 **FOREIGN SUPPORT ORDER**

4  
5 **PART 1. POLICY AND SCOPE derived from Convention Chapters I-III**

6  
7 **SECTION 701. APPLICATION AND SCOPE OF [ARTICLE].**

8 (a) The Legislature declares that, without regard to the residence of an obligor, obligee,  
9 or child in a foreign country, it is the public policy of [this State] to:

10 (1) establish a support obligation as provided by the law of this State;

11 (2) recognize and enforce an order of a foreign country based on valid jurisdiction  
12 for child support or spousal or ex-spousal support; and

13 (3) provide effective measures for the prompt enforcement of such support orders.

14 (b) Except as otherwise provided in this [Article], proceedings for establishment,  
15 registration, recognition, enforcement, and modification of a support order involving an obligee,  
16 obligor, or child residing in a foreign country shall be subject to the terms of this [Act] [the  
17 Uniform Interstate Family Support Act (20XX)] as enacted in this State, effective [supply date].

18 (c) This [Article] applies to:

19 (1) actions brought under the provisions of the Convention on the International  
20 Recovery of Child Support and Other Forms of Family Maintenance; and

21 (2) a support order rendered by a foreign tribunal.

22 *Reporter's note. Whether distinctions will be made between categories of foreign countries*  
23 *and the support orders of their tribunals remains to be decided, see definition in Section*  
24 *102(QQ), supra.*  
25

1           **SECTION 702. POLICY IN EVENT OF CONFLICT OF TEXT.**

2           (a) The [name of legislative body] finds that if there is a conflict between this [Article]

3   and:

4                   (1) the text of the Convention, the Convention shall prevail; and

5                   (2) an interpretation of the text of the Convention by a federal court of competent  
6   jurisdiction and a tribunal or appellate court of this State, the judicial interpretation by the federal  
7   court shall prevail.

8           (b) This [Article] shall be applied and construed to promote the uniformity of the law  
9   among the States of the United States of America for the processing of a request for services by  
10   or to a foreign country made pursuant to the Convention.

11           **SECTION 703. AVAILABLE SERVICES. derived from Convention art. 10**

12           (a) the following [legal services] [services] shall be available in this State to an obligee,  
13   obligor, or child residing in a initiating foreign country seeking to recover support under this  
14   [Article] :

15                   (1) recognition, registration, and enforcement of a support order of the foreign  
16   tribunal;

17                   (2) establishment of a support order in this State if:

18                           (A) there is no existing order, including establishment of parentage; or

19                           (B) an order of the initiating foreign tribunal is not recognized or enforced  
20   under Section QQQ [**Convention art. 17**] or Section QQQ [**Convention art. 19 b) or e)**]

21                   (5) modification of an order as provided by Part 3 of this [Article].

22           (b) Except as otherwise provided in this [Article] or in the Convention, an action brought  
23   under this [Article] must be decided under the jurisdictional laws of this State.



1       *Reporter’s note. Clear distinctions must be made between the terms “application” under*  
2 *the Convention, which is referred to as “request for services,” and the filing of a [petition] with*  
3 *a tribunal of this State for a disposition of that request. The application is documentation that*  
4 *flows between Central Authorities. A [petition] under UIFSA, as described in UIFSA Article 3.*  
5 *There is no reason to include the Convention’s “application” requirements into State law when*  
6 *they are already in the Convention. Communications between Central Authorities do not involve*  
7 *a tribunal of this State. Similarly, there is a reference that applications pursuant to the*  
8 *Convention are pre-approved if made on the forms and include the documents prescribed by the*  
9 *Convention. As a result, the next two provisions of the Convention, Articles 11, 12, and 13 are*  
10 *shown as struck-through as being not relevant to UIFSA.*

11  
12       **[SECTION 704. DUTIES OF TITLE IV-D AGENCY. derived from Convention**

13       **Articles 4 to 14**

14       (a) On behalf of the United States, a Contracting State under the Convention, the federal  
15       Central Authority, [State, HHS, ACF, OCSE], has designated [Title IV-D agency of this State] as  
16       the Central Authority of this State with the duty to discharge the duties of that office as imposed  
17       by the Convention. Communication to and from a foreign country is the responsibility of the  
18       [Title IV-D agency] of the State.

19       (b) The [Title IV-D Agency] of this State shall:

20               (1) initiate a request for services to the Central Authority of a responding foreign  
21       country [pursuant to the Convention] on behalf of an obligee or an obligor to whom the agency is  
22       providing Title IV-D services;

23               (2) respond to a request for services made [pursuant to the Convention] by a  
24       Central Authority of an initiating foreign country.

25       (b) A request for services [pursuant to the Convention] shall be made on the forms and  
26       include the documents prescribed by the Convention.]

27       **SECTION 705. ACCESS TO TRIBUNAL. derived from Convention art. 14**

28       \*\*\* No security, bond or deposit, however described, shall be required to guarantee the

1 payment of costs and expenses in proceedings brought by the obligee.

2 *Reporter's note. Convention art. 14 is not only the key provision as far as the U.S. is concerned,*  
3 *it also is highly controversial. The issue is the principle that "free legal assistance" is crucial to*  
4 *the functioning of the Convention. This major object of dispute at the Diplomatic Session may be*  
5 *a subject that will be cited by some countries as preventing them from ratifying the Convention.*  
6 *As will be quickly discerned in reviewing the text of the multiple versions of Article 14 under*  
7 *consideration set forth below, the language proposed to be incorporated in the Convention is*  
8 *complex and at opposite poles. The text suggested in UIFSA is the only point that has elicited*  
9 *general agreement.*

## 10 CHAPTER I – OBJECT, SCOPE AND DEFINITIONS

### 11 Article 1 Object

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

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

### 19 Article 2 Scope

20 1. This Convention shall apply to maintenance obligations arising from a parent-child  
21 relationship towards a child under the age of 21 [including claims for spousal support made in  
22 combination with claims for maintenance in respect of such a child] and, with the exception of  
23 Chapters II and III, to spousal support.

24 2. Any Contracting State may declare in accordance with Article 58 that it will extend the  
25 application of the whole or any part of the Convention to any maintenance obligation arising  
26 from a family relationship, parentage, marriage or affinity. Any such declaration shall give rise  
27 to obligations between two Contracting States only in so far as their declarations cover the same  
28 maintenance obligations and parts of the convention.

29 [3. The provisions of this Convention shall apply to children regardless of the marital status of  
30 the parents.]

31 4. The Convention also applies to claims by a public body in respect of maintenance obligations  
32 covered by paragraphs 1, 2 [and 3].<sup>2</sup>

### 33 Article 3 Definitions

34 For the purposes of this Convention –

- 35 a) "creditor" means an individual to whom maintenance is owed or is alleged to be owed;
- 36 b) "debtor" means an individual who owes or who is alleged to owe maintenance;
- 37 [c] "legal assistance" means the assistance necessary to enable applicants to know and assert  
38 their rights and to ensure that applications are fully and effectively dealt with in the requested  
39 State. This includes assistance such as legal advice, assistance in bringing a case before an  
40 authority, legal representation and exemption from costs of proceedings;]
- 41 d) "agreement in writing" means an agreement recorded in any medium the information  
42 contained in which is accessible so as to be usable for subsequent reference. 1 At least one

1 delegation expressed concern with regard to applying any part of the Convention to persons other  
2 than children.

3 2 The present preliminary draft in Article 33 deals, in respect of public bodies, only with  
4 applications for recognition and enforcement under Article 10(1). It has yet to be decided  
5 whether provision should be made to allow public bodies under Chapter III to apply for the  
6 establishment of a decision or the modification of a decision.

7  
8 *Reporter's note. Incorporation of the concept of "Central Authorities" in Part 1 of*  
9 *Article 7, is inappropriate for inclusion in state law, i.e., UIFSA. The details of international*  
10 *administrative cooperation between the Contracting States described in Chapter II of the*  
11 *Convention do not involve a "tribunal of this State." The direction to the state IV-D agency*  
12 *substitutes for the alternative of repeating the Convention in toto. Please note disagreement if*  
13 *the language set forth below in the proposed UIFSA Article 7 and in Convention Chapter II,*  
14 *Articles 4 through 9 should be included. No opinion is expressed about the inclusion of the treaty*  
15 *text, rephrased or not, in federal law or regulation. Note again, the treaty text is what it is. For*  
16 *example, review **Convention art. 6 Specific functions of Central Authorities**, which contains*  
17 *action verbs such as "help, encourage, facilitate, and provide assistance."*

## 18 19 CHAPTER II – ADMINISTRATIVE CO-OPERATION

### 20 Article 4 Designation of Central Authorities

21 1. A Contracting State shall designate a Central Authority to discharge the duties that are  
22 imposed by the Convention on such an authority.

23 2. Federal States, States with more than one system of law or States having autonomous  
24 territorial units shall be free to appoint more than one Central Authority and shall specify the  
25 territorial or personal extent of their functions. Where a State has appointed more than one  
26 Central Authority, it shall designate the Central Authority to which any communication may be  
27 addressed for transmission to the appropriate Central Authority within that State.

28 3. The designation of the Central Authority or Central Authorities, their contact details, and  
29 where appropriate the extent of their functions as specified in paragraph 2, shall be  
30 communicated by a Contracting State to the Permanent Bureau of the Hague Conference on  
31 Private International Law at the time when the instrument of ratification or accession is  
32 deposited. Contracting States shall promptly inform the Permanent Bureau of any changes.

### 33 Article 5 General functions of Central Authorities

34 Central Authorities shall –

35 a) co-operate with each other and promote co-operation amongst the competent authorities in  
36 their States to achieve the purposes of the Convention;

37 b) provide information to the Permanent Bureau as to the laws and procedures concerning  
38 maintenance obligations in their States;

39 c) seek as far as possible solutions to difficulties which arise in the application of the  
40 Convention.

### 41 Article 6 Specific functions of Central Authorities (note, a mix of left justify & justify below)

42 1. Central Authorities shall provide assistance in relation to applications under Chapter III. In  
43 particular they shall –

44 a) transmit and receive such applications;

45 b) initiate, or facilitate the institution of, proceedings in respect of such applications.

2. In relation to such applications they shall take all appropriate measures –

- a) where the circumstances require, to provide or facilitate the provision of legal assistance;
- b) to help locate the debtor or the creditor;
- c) to help obtain relevant information concerning the income and, if necessary, other financial circumstances of the debtor or creditor, including the location of assets;
- d) to encourage amicable solutions with a view to obtaining voluntary payment of maintenance, where suitable by use of mediation, conciliation or similar processes;
- e) to facilitate the ongoing enforcement of maintenance decisions including any arrears;
- f) to facilitate the collection and expeditious transfer of maintenance payments;
- g) to facilitate the obtaining of documentary or other evidence;
- h) to provide assistance in establishing parentage where necessary for the recovery of maintenance;
- i) to initiate or facilitate the institution of proceedings to obtain any necessary provisional measures that are territorial in nature and the purpose of which is to secure the outcome of a pending maintenance application;]
- j) to facilitate service of documents.

3. The functions of the Central Authority under this Article may, to the extent permitted under the law of that State, be performed by public bodies, or other bodies subject to the supervision of the competent authorities of that State. The designation of any such public bodies or other bodies as well as their contact details and the extent of their functions shall be communicated by a Contracting State to the Permanent Bureau of the Hague Conference on Private International Law. Contracting States shall promptly inform the Permanent Bureau of any changes.

4. Nothing in this Article or Article 7 shall be interpreted as imposing an obligation on a Central Authority to exercise powers that can be exercised only by judicial authorities under the law of the requested State.

#### Article 7 Requests for specific measures

1. A Central Authority may make a request, supported by reasons, to another Central Authority to take appropriate specific measures under Article 6(2) b), c), [g), h), i) and j)] when no application under Article 10 is pending. The requested Central Authority shall take such measures if satisfied that they are necessary to assist a potential applicant [in making an application under Article 10 or] in determining whether such an application should be initiated.

[2. A Central Authority may also take specific measures on the request of another Central Authority in relation to a case having an international element concerning the recovery of maintenance pending in the requesting State.]

#### Article 8 Central Authority costs

1. Each Central Authority shall bear its own costs in applying this Convention.

2. Central Authorities may not impose any charge on an applicant for the provision of their services under the Convention save for exceptional costs or expenses arising from a request for a specific measure under Article 7.

### CHAPTER III – APPLICATIONS THROUGH CENTRAL AUTHORITIES

#### Article 9 Application through Central Authorities

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

#### Article 10 Available applications

1. The following categories of application shall be available to a creditor in a requesting State

1 seeking to recover maintenance under this Convention –  
2 a) recognition or recognition and enforcement of a decision;  
3 b) enforcement of a decision made or recognised in the requested State;  
4 c) establishment of a decision in the requested State where there is no existing decision,  
5 including where necessary the establishment of parentage;  
6 d) establishment of a decision in the requested State where recognition and enforcement of a  
7 decision is not possible or is refused because of the lack of a basis for recognition and  
8 enforcement under Article 17 or on the grounds specified in Article 19 b) or e);  
9 e) modification of a decision made in the requested State;  
10 f) modification of a decision made in a State other than the requested State.

11 2. The following categories of application shall be available to a debtor in a requesting State  
12 against whom there is an existing maintenance decision –

13 a) modification of a decision made in the requested State;  
14 b) modification of a decision made in a State other than the requested State.

15 3. Save as otherwise provided in this Convention, the applications in paragraphs 1 and 2 shall be  
16 determined under the law of the requested State, and applications in paragraphs 1 c) to f) and 2,  
17 shall be subject to the jurisdictional rules applicable in the requested State.<sup>3</sup>  
18

19 *Reporter's note. Clear distinctions must be made between the term "application" in the*  
20 *Convention, which is referred to as "request for services," in this draft, and the filing of a*  
21 *[petition] with a tribunal of this State for a disposition of that request. The application is*  
22 *documentation that flows between Central Authorities. A [petition] under UIFSA, as described in*  
23 *UIFSA Article 3. There is no reason to include the Convention's "application" requirements into*  
24 *State law when they are already in the Convention. Communications between Central*  
25 *Authorities do not involve a tribunal of this State. Similarly, there is a reference that applications*  
26 *pursuant to the Convention are pre-approved if made on the forms and include the documents*  
27 *prescribed by the Convention. As a result, the next two provisions of the Convention, Articles 11,*  
28 *12, and 13 are shown as struck-through as being not relevant to UIFSA.*

## 30 Article 11 Application contents

### 31 Option 1 (if no mandatory forms exist)

32 1. All applications under Article 10 shall at a minimum include –

33 a) a statement of the nature of the application or applications;  
34 b) the name and contact details, including the address, and date of birth of the applicant;  
35 c) the name and, if known, address and date of birth of the respondent;  
36 d) the name and the date of birth of any person for whom maintenance is sought;  
37 e) the grounds upon which the application is based;  
38 f) in an application by a creditor, information concerning where the maintenance payment should  
39 be sent or electronically transmitted;  
40 g) save in an application made under Article 10(1) a), any information or document specified by  
41 declaration in accordance with Article 58 by the requested State;  
42 [h) the name and contact details of the person or unit from the Central Authority of the  
43 requesting State responsible for processing the application.]

44 2. As appropriate, and to the extent known, the application shall in addition in particular include

45 –

- a) the financial circumstances of the creditor;
- b) the financial circumstances of the debtor including the name and address of the employer of the debtor and the nature and location of the assets of the debtor;
- c) any other information that may assist with the location of the respondent.

3. The application shall be accompanied by any necessary supporting information or documentation including documentation concerning the entitlement of the applicant to legal assistance. In the case of applications under Article 10(1) a), the application shall be accompanied only by the documents listed under Article 21.

4. An application under Article 10 may be made in the form recommended and published by the Hague Conference on Private International Law.

Option 2 (if mandatory forms exist)

Applications under Article 10 shall be in accordance with the forms annexed to this Convention and shall be accompanied by any necessary documents, without prejudice, save in relation to an application under Article 10(1) a), to the right of the requested State to require further information or documents in appropriate cases.

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

1. The Central Authority of the requesting State shall assist the applicant in ensuring that the application is accompanied by all the information and documents known by it to be necessary for consideration of the application.

2. The Central Authority of the requesting State shall, when satisfied that the application complies with the requirements of the Convention, transmit the application to the Central Authority of the requested State. The application shall be accompanied by the transmittal form set out in Annex 1 to the Convention. [The Central Authority of the requesting State shall, when requested by the Central Authority of the requested State, provide a complete copy certified by the competent authority in the State of origin of any document specified under Articles 21(1) a), b) and d) [and 26(2)].]

3. The requested Central Authority shall within six weeks from the date of receipt of the application, acknowledge receipt [in the form the content of which is set out in Annex.] and inform the Central Authority of the requesting State what initial steps have been or will be taken to deal with the application and may request any further necessary documents and information. Within the same six-week period, the requested Central Authority shall provide to the requesting Central Authority the name and contact details of the person or unit responsible for responding to inquiries regarding the progress of the application.

4. Within three months after the acknowledgement, the requested Central Authority shall inform the requesting Central Authority of the status of the application.

5. Requesting and requested Central Authorities shall –

- a) keep each other informed of the person or unit responsible for a particular case;
- b) keep each other informed of the progress of the case and provide timely responses to enquiries.

6. Central Authorities shall process a case as quickly as a proper consideration of the issues will allow.

7. Central Authorities shall employ the most rapid means of communication at their disposal.

8. A requested Central Authority may refuse to process an application only if it is manifest that the requirements of this Convention are not fulfilled. In such case, that Central Authority shall promptly inform the requesting Central Authority of its reasons.

1 9. The requested Central Authority may not reject an application solely on the basis that  
2 additional documents or information are needed. However, the requested Central Authority may  
3 ask the requesting Central Authority to produce these within a period of at least 3 months. If the  
4 requesting Central Authority does not produce the additional documents or information within  
5 that period, the requested Central Authority may decide that it will no longer process the  
6 application, in which case it shall inform the requesting Central Authority of this decision.

7 [Article 13 Means of communications – Admissibility

8 The admissibility in the courts or administrative authorities of the Contracting States of any  
9 application transmitted by the Central Authority of a requesting State in accordance with the  
10 terms of this Convention, or of any documents or other information appended thereto or provided  
11 by a Central Authority, may not be challenged by reason only of the medium or means of  
12 communications employed between the Central Authorities concerned.]  
13

14 *Reporter’s note. The “globalization of UIFSA Articles 1-6 eliminates the need for many of*  
15 *the of Convention provisions, e.g., Convention Article 13 is covered by UIFSA Section 316(d).*  
16

17 Article 14 Effective access to procedures

18 1. The requested State shall provide applicants with effective access to procedures, including  
19 appeal procedures, arising from applications under Chapter III, where necessary by the provision  
20 of free legal assistance.

21 2. The requested State shall not be obliged to provide the legal assistance referred to in paragraph  
22 1 where the procedures are designed to enable the applicant to make the case without the need  
23 for such assistance, and where the Central Authority provides such free services as are necessary.

24 3. The provision of free legal assistance may be made subject to a means or a merits test. A  
25 Contracting State may declare in accordance with Article 58 that it will provide free legal  
26 assistance in applications concerning child support on the basis of the assessment of the child’s  
27 means only, or without any means test at all.

28 4. Entitlements to free legal assistance shall not be less than those available in equivalent  
29 domestic cases.

30 5. Subject to paragraph 2, a creditor, who in the State of origin has benefited from free legal  
31 assistance, shall be entitled, in any proceedings for recognition or enforcement, to benefit, at  
32 least to the same extent, from free legal assistance as provided for by the law of the State  
33 addressed under the same circumstances.

34 6. No security, bond or deposit, however described, shall be required to guarantee the payment of  
35 costs and expenses in proceedings brought by a creditor under the Convention.

36 Option 2 (Arts 14 to 14 ter)

37 Article 14 Effective access to procedures

38 1. The requested State shall provide applicants with effective access to procedures, including  
39 enforcement and appeal procedures, arising from applications under Chapter III.

40 2. To provide such effective access, the requested State shall provide free legal assistance in  
41 accordance with Articles 14, 14 bis and 14 ter unless paragraph 3 applies.

42 3. The requested State shall not be obliged to provide such free legal assistance if and to the  
43 extent that the procedures of that State enable the applicant to make the case without the need for  
44 such assistance, and the Central Authority provides such services as are necessary free of charge.

45 4. Entitlements to free legal assistance shall not be less than those available in equivalent

domestic cases.

5. No security, bond or deposit, however described, shall be required to guarantee the payment of costs and expenses in proceedings [brought by the creditor] under the Convention.

Article 14 bis Free legal assistance for child support applications

1. The requested State shall provide free legal assistance in respect of all applications [by a creditor] under Chapter III concerning maintenance obligations arising from a parent-child relationship towards a child under the age of 21.

2. Notwithstanding paragraph 1, the requested State may, in relation to applications other than under Article 10(1) a) and b) –

[a] impose reasonable charges for the costs of genetic testing when such testing is necessary in order to establish a maintenance decision in that State; or]

b) refuse free legal assistance, if it considers that, on the merits, the application [or any appeal] is manifestly unfounded; [or]

Option A

c) refuse free legal assistance, if it is manifest that the applicant's financial circumstances are exceptionally strong. In assessing whether the financial circumstances are exceptionally strong, account shall be taken of the cost of living in the requesting State.

Option B

c) where it considers that the economic situation of the applicant is disproportionate to the requirements under which legal assistance applicants are deemed able to bear the costs of proceedings, so inform the requesting Central Authority. If the requesting Central Authority determines that, taking into account costs foreseen in the requested State, the applicant should be provided free legal assistance, the requested Central Authority shall provide such assistance. If the requesting Central Authority determines that the applicant would not be entitled to free legal assistance, it shall so notify the requested Central Authority. With prior authorisation of the applicant, the requested Central Authority shall proceed upon the application and may charge for legal assistance.

Option C

Delete sub-paragraph c)

Article 14 ter Applications not qualifying under Article 14 bis

In the case of an application not qualifying for free legal assistance under Article 14 bis –

a) the provision of free legal assistance may be made subject to a means or a merits test;

b) [an applicant][a creditor], who in the State of origin has benefited from free legal assistance, shall be entitled, in any proceedings for recognition or enforcement, to benefit, at least to the same extent, from free legal assistance as provided for by the law of the State addressed under the same circumstances.

## **PART 2. ESTABLISHMENT, RECOGNITION, AND ENFORCEMENT OF SUPPORT ORDER OF FOREIGN TRIBUNAL. derived from Convention Chapters IV-V**

### **SECTION 721. SUPPORT ORDER OF TRIBUNAL. derived from Convention art.**

**16.**



(a) A tribunal of this State may render an order to establish, or recognize and enforce a support order from a foreign tribunal. The order may include a settlement or agreement concluded before an order by the foreign tribunal, and may include automatic adjustment by indexation, a requirement to pay arrears, retroactive support and interest on arrears, and a determination of costs or expenses.

(b) If the order does not relate solely to a maintenance obligation, the tribunal of this State shall limit its order to the parts of the order which concern a support obligation.

[(c) The tribunal of this State may enforce authentic instruments and private agreements relating to a support obligation in accordance with [Article 26.]

#### Article 16 Scope of the Chapter

1. This Chapter applies to a decision rendered by a judicial or administrative authority in respect of a maintenance obligation. Such decision includes a settlement or agreement concluded before or approved by such an authority. A decision may include automatic adjustment by indexation and a requirement to pay arrears, retroactive maintenance or interest and a determination of costs or expenses.

2. If a decision does not relate solely to a maintenance obligation, the effect of this Chapter is limited to the parts of the decision which concern maintenance obligations.

3. For the purpose of paragraph 1, “administrative authority” means a public body whose decisions, under the law of the State where it is established –

a) may be made the subject of an appeal to or review by a judicial authority; and

b) have the same force and effect as a decision of a judicial authority on the same matter.

[4. This Chapter also applies to authentic instruments and private agreements relating to a maintenance obligation in accordance with Article 26.]

5. The provisions of this Chapter apply to an application for recognition and enforcement made directly to a competent authority of the State addressed in accordance with Article 34.

### **SECTION 722. ESTABLISHMENT OF SUPPORT ORDER INVOLVING PARTY OR CHILD RESIDING IN FOREIGN COUNTRY. derived from Convention art. 34**

In a proceeding under this [Act], a tribunal of this State shall apply the provisions of this [Act] to establish a support order binding on a nonresident obligor or obligee subject to the jurisdiction of the tribunal irrespective of whether the nonresident party or the child reside in a

foreign country that:

(1) will not recognize and enforce the order; or

(2) is committed to recognize and enforce such an order by agreement, treaty, or

otherwise.

*Reporter's note. One fundamental principle of U.S. jurisprudence is that our courts are open to all litigants with a proper cause of action. While this may go without saying, given Convention Article 34, below. Saying it can do no harm. Rumor has it that one appellate court called that principle into question when an individual sought to enforce child support without benefit of assistance of a IV-D agency.*

*Further, ever since the first iteration of UIFSA in 1992, the Uniform Law Commission, nee NCCUSL, has jealously guarded the prerogative of a litigant to employ "private counsel," see UIFSA Section 309. That principle undoubtedly will continue to be a focal point of the UCL.*

## **CHAPTER VIII – GENERAL PROVISIONS**

### **Article 34 Direct requests to competent authorities**

1. This Convention does not exclude the possibility of recourse to such procedures as may be available under the national law of a Contracting State allowing a person (an applicant) to seize? directly a competent authority of that State in a matter governed by this Convention including, subject to Article 15, for the purpose of having a maintenance decision established or modified.

2. However, Article 14(5) and (6) and the provisions of Chapters V, VI and VII shall apply in relation to a request for recognition and enforcement made directly to a competent authority in a Contracting State.

### **SECTION 723. BASES FOR RECOGNITION AND ENFORCEMENT. derived from Convention art. 17**

(a) A support order made by a foreign tribunal shall be recognized and enforced in this State if:

(1) the respondent was resident in the foreign country at the time proceedings were instituted;

(2) the respondent submitted to the jurisdiction, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or

(3) the child for whom support was ordered was resident in the foreign country at the time proceedings were instituted, provided that the respondent lived with the child in that foreign country or resided there and provided support for the child.

(b) A tribunal of this State recognize and enforce a support order if, in similar factual circumstances, those facts would confer, or would have conferred jurisdiction on the tribunal to make such an order.

(c) A tribunal of this State shall take all appropriate measures to establish a support order:

(1) if recognition of a support order of a foreign tribunal is not possible because under identical facts a tribunal of this State would not have had personal jurisdiction over the obligor, obligee, or the child to render a support order; and

(2) the tribunal may assert personal jurisdiction over the obligor.

(d) A support order in favor of a child because the obligor was not subject to personal jurisdiction of the foreign tribunal that entered the support order, shall be accepted as establishing the eligibility of that child for support in this State.

(e) A support order shall be recognized by a tribunal of this State only if the order has effect in the foreign country, and shall be enforced only if it is enforceable there.

#### Article 17 Bases for recognition and enforcement

1. A decision made in one Contracting State ("the State of origin") shall be recognised and enforced in other Contracting States if –

a) the respondent was habitually resident in the State of origin at the time proceedings were instituted;

b) the respondent has submitted to the jurisdiction either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity;

c) the creditor was habitually resident in the State of origin at the time proceedings were instituted;

d) the child for whom maintenance was ordered was habitually resident in the State of origin at the time proceedings were instituted, provided that the respondent has lived with the child in that State or has resided in that State and provided support for the child there;

e) except in disputes relating to maintenance obligations in respect of children, there has been agreement to the jurisdiction in writing by the parties; or

1 f) the decision was made by an authority exercising jurisdiction on a matter of personal status or  
2 parental responsibility, unless that jurisdiction was based solely on the nationality of one of the  
3 parties.

4 2. A Contracting State may make a reservation, in accordance with Article 57, in respect of  
5 paragraph 1 c), e) or f). ?

6 3. A Contracting State making a reservation under paragraph 2 shall recognise and enforce a  
7 decision if its law would in similar factual circumstances confer or would have conferred  
8 jurisdiction on its authorities to make such a decision.

9 4. A Contracting State shall, if recognition of a decision is not possible as a result of a  
10 reservation under paragraph 2, and if the debtor is habitually resident in that State, take all  
11 appropriate measures to establish a decision. The preceding sentence does not apply to direct  
12 applications for recognition and enforcement under Article 16(5) unless a new application is  
13 made under Article 10(1) d).

14 5. A decision in favour of a child under the age of which cannot be recognised by virtue only of a  
15 reservation under Article 17(1) c), e) or f) shall be accepted as establishing the eligibility of that  
16 child for maintenance in the requested State.

17 6. A decision shall be recognised only if it has effect in the State of origin, and shall be enforced  
18 only if it is enforceable in the State of origin.

#### 20 **SECTION 724. SEVERABILITY. derived from Convention art. 18**

21 (a) If a tribunal of this State is unable to recognize or enforce an entire support order of a  
22 foreign tribunal, the tribunal shall recognize or enforce any severable portion of the order which  
23 can be recognized or enforced.

24 (b) A [petition] may request partial recognition or enforcement of a support order.

25 Article 18 Severability and partial recognition and enforcement

26 1. If the State addressed is unable to recognise or enforce the whole of the decision it shall  
27 recognise or enforce any severable part of the decision which can be so recognised or enforced.

28 2. Partial recognition or enforcement of a decision can always be applied for.

#### 30 **SECTION 725. GROUNDS FOR REFUSING RECOGNITION AND**

#### 31 **ENFORCEMENT. derived from Convention art. 19**

32 A tribunal of this State may refuse recognition and enforcement of a support order of a  
33 foreign tribunal if:

34 (1) recognition and enforcement of the order is manifestly incompatible with the public

1 policy (“ordre public”) of the United States;

2 (2) the order was obtained by fraud in connection with a matter of procedure;

3 (3) proceedings between the same parties and having the same purpose are pending  
4 before a tribunal of another State addressed and those proceedings were the first to be instituted;

5 (4) the order is incompatible with an order rendered between the same parties and having  
6 the same purpose either in this State or a foreign country, provided that the latter support order  
7 fulfils the conditions necessary for its recognition and enforcement in this State

8 (5) the respondent did not have:

9 (A) proper notice of the proceedings and an opportunity to be heard;

10 (B) proper notice of the order and the opportunity to challenge it on fact and law;

11 or

12 (C) the order was made in violation of Section QQQ [**Convention art. 15**].

13 *Reporter’s note. Subsection (1) should be read in the context of nationwide public policy if a*  
14 *foreign order is to be refused on public policy grounds. Support for a former member of a same-*  
15 *sex couple immediately comes to mind. Of course, this is not actually a UIFSA question because,*  
16 *for the time being at least, public enforcement of a purely spousal support order is left to the*  
17 *individual States. By its terms, UIFSA applies to a “support order” for a child, spouse, or former*  
18 *spouse.*

19  
20 *Hypothetically, Subsection (4) may come in conflict with the UIFSA system of continuing*  
21 *exclusive jurisdiction. If so, perhaps there will be a situation in which the Convention will*  
22 *control over state law; that does not seem likely enough to warrant drafting concern.*

23  
24 Article 19 Grounds for refusing recognition and enforcement

25 Recognition and enforcement of a decision may be refused –

26 a) if recognition and enforcement of the decision is manifestly incompatible with the public  
27 policy ("ordre public") of the State addressed;

28 b) if the decision was obtained by fraud in connection with a matter of procedure;

29 c) if proceedings between the same parties and having the same purpose are pending before an  
30 authority of the State addressed and those proceedings were the first to be instituted;

31 d) if the decision is incompatible with a decision rendered between the same parties and having  
32 the same purpose, either in the State addressed or in another State, provided that this latter  
33 decision fulfils the conditions necessary for its recognition and enforcement in the State

1 addressed;  
2 e) if the respondent had neither –  
3 i) proper notice of the proceedings and an opportunity to be heard, nor  
4 ii) proper notice of the decision and the opportunity to challenge it on fact and law; or  
5 f) if the decision was made in violation of Article 15.  
6

7 **SECTION 726. LIMIT ON PROCEEDINGS. derived from Convention art. 15**

8 (a) If a support order is made by a foreign tribunal where the obligee is resident,  
9 proceedings to modify the support order or to make a new support order may not be brought by  
10 the obligor in this State as long as the obligee remains resident in the foreign country where the  
11 support order was made.

12 (b) Subsection (a) does not apply:

13 (1) in a dispute relating to a support obligation of a child, the parties may agree in  
14 writing to submit to the jurisdiction of a tribunal of this State;

15 (2) if the obligee submits to the jurisdiction of this State either expressly or by  
16 defending on the merits of the case without objecting to the jurisdiction at the first available  
17 opportunity;

18 (3) if the foreign tribunal cannot, or refuses to, exercise jurisdiction to modify the  
19 support order or make a new support order; or,

20 (4) if the support order made by the foreign tribunal cannot be recognized or  
21 declared enforceable in this State.

22 **Article 15 Limit on proceedings**

23 1. Where a decision is made in a Contracting State where the creditor is habitually resident,  
24 proceedings to modify the decision or to make a new decision cannot be brought by the debtor in  
25 any other Contracting State as long as the creditor remains habitually resident in the State where  
26 the decision was made.

27 2. The previous paragraph shall not apply –

28 a) where, except in disputes relating to maintenance obligations in respect of children, there is  
29 agreement in writing between the parties to the jurisdiction of that other Contracting State; ?

30 b) where the creditor submits to the jurisdiction of that other Contracting State either expressly

1 or by defending on the merits of the case without objecting to the jurisdiction at the first  
2 available opportunity;  
3 c) where the competent authority in the State of origin cannot, or refuses to, exercise jurisdiction  
4 to modify the decision or make a new decision; or,  
5 d) where the decision made in the State of origin cannot be recognised or declared enforceable in  
6 the Contracting State where proceedings to modify the decision or make a new decision are  
7 contemplated.  
8

9           **SECTION 727. PROCEDURE ON [PETITION] FOR RECOGNITION AND**  
10 **ENFORCEMENT. derived from Convention art. 20**

11           (a) The procedures for recognition and enforcement of an order of a foreign tribunal are  
12 governed by the law of this State.

13           (b) A challenge or an appeal of an order of a foreign tribunal must be lodged within 30  
14 days of notification of the decision. If the contesting party is resident in a foreign country, the  
15 challenge or appeal must be lodged within 60 days of notification.

16           (c) A challenge or appeal may be founded on:

17                   (1) the grounds for refusing recognition and enforcement set out in [**Convention**  
18 **art. 19**];

19                   (2) the bases for recognition and enforcement under [**Convention art. 17**];

20                   (3) the authenticity, veracity or integrity of any document transmitted in  
21 accordance with [**Convention art. 21(1) a), b) or d)**].

22           (d) A challenge or an appeal by a respondent may also be founded on the fulfillment of  
23 the debt if the recognition and enforcement was only applied for in respect of support arrears.

24 Article 20 Procedure on an application for recognition and enforcement. ?

25 1. Subject to the provisions of this Convention, the procedures for recognition and enforcement  
26 shall be governed by the law of the State addressed.

27 2. Where an application for recognition and enforcement of a decision has been made through  
28 Central Authorities in accordance with Chapter III, the requested Central Authority shall  
29 promptly either -

30 a) refer the application to the competent authority which shall without delay declare the decision

1 enforceable or register the decision for enforcement; or  
2 b) if it is the competent authority take such steps itself.  
3 3. In the case of a direct application to a competent authority in the requested State in accordance  
4 with Article 16(5), that authority shall without delay declare the decision enforceable or register  
5 the decision for enforcement.  
6 4. A declaration or registration may be refused only for the reasons specified in [Articles 17 and  
7 19] [Article 19 a)]. ? At this stage neither the applicant nor the respondent is entitled to make any  
8 submissions.  
9 5. The applicant and the respondent shall be promptly notified of the declaration or registration,  
10 or the refusal thereof, made under paragraphs 2 and 3 and may bring a challenge or appeal on  
11 fact and on a point of law.  
12 6. A challenge or an appeal is to be lodged within 30 days of notification under paragraph 6. If  
13 the contesting party is not resident in the Contracting State in which the declaration or  
14 registration was made or refused, the challenge or appeal shall be lodged within 60 days of  
15 notification.  
16 7. A challenge or appeal may be founded only on the following –  
17 a) the grounds for refusing recognition and enforcement set out in Article 19;  
18 b) the bases for recognition and enforcement under Article 17;  
19 c) the authenticity, veracity or integrity of any document transmitted in accordance with Article  
20 21(1) a), b) or d).  
21

## 22 **SECTION 728. ACCOMPANYING DOCUMENTS. derived from Convention art.**

### 23 **21**

24 (a) A [petition] for recognition and enforcement of a support order of a foreign tribunal  
25 shall be accompanied by the following:

- 26 (1) a complete text of the order;
- 27 (2) a document stating that the order is enforceable in the issuing foreign country;
- 28 (3) if the respondent did not appear in the proceedings in the issuing foreign  
29 tribunal, a document establishing that the conditions of Section QQQ [**Convention art. 19 e)**]  
30 were met;
- 31 (4) if relevant, a document showing the amount of any arrears and the date such  
32 amount was calculated; [and]
- 33 (5) if relevant, in the case of a order providing for automatic adjustment by



1 indexation, a document providing the information necessary to make the appropriate  
2 calculations; [and

3 (6) if relevant, documentation showing the extent to which the [petitioner]  
4 received free legal assistance in the issuing foreign tribunal.]

#### 5 Article 21 Documents

6 1. An application for recognition and enforcement under Article 20 shall be accompanied by the  
7 following –

8 a) a complete text of the decision;

9 b) a document stating that the decision is enforceable in the State of origin and, in the case of a  
10 decision by an administrative authority, a document stating that the requirements of Article 16(3)  
11 are met;

12 c) if the respondent did not appear in the proceedings in the State of origin, a document  
13 establishing that the conditions of Article 19 e) were met;

14 d) where necessary, a document showing the amount of any arrears and the date such amount  
15 was calculated;

16 e) where necessary, in the case of a decision providing for automatic adjustment by indexation, a  
17 document providing the information necessary to make the appropriate calculations;

18 f) where necessary, documentation showing the extent to which the applicant received free legal  
19 assistance in the State of origin.

20 2. A Contracting State may by declaration under Article 58 specify circumstances in which it  
21 will accept an abstract or extract of the decision drawn up by the competent authority of the State  
22 of origin in lieu of a complete text of the decision; [in such a case a Contracting State may use  
23 the form set out in Annex.].

24 3. Upon a challenge or appeal under Article 20(7) c) or upon request by the competent authority  
25 in the requested State, a complete copy of the document concerned, certified by the competent  
26 authority in the State of origin, shall be provided promptly -

27 a) by the Central Authority of the requesting State, where the application has been made in  
28 accordance with Chapter III;

29 b) by the applicant, where the application has been made directly to a competent authority of the  
30 State addressed.

#### 31 Article 22 Procedure on an application for recognition

32 This Chapter shall apply mutatis mutandis to an application for recognition of a decision, save  
33 that the requirement of enforceability is replaced by the requirement that the decision has effect  
34 in the State of origin.  
35

### 36 **SECTION 729. FINDINGS OF FACT. derived from Convention art. 23**

37 A tribunal of this State is bound by the findings of fact on which the authority of the  
38 issuing foreign tribunal based its authority to render an order presented to be recognized or

1 enforced.

2 *Reporter's note. This provision is likely to be controversial, despite the fact that it makes*  
3 *perfect sense if the foreign tribunal had personal jurisdiction to decide the issue.*

4  
5 Article 23 Findings of fact

6 Any competent authority of the State addressed shall be bound by the findings of fact on which  
7 the authority of the State of origin based its jurisdiction.  
8

9 **SECTION 730. NO REVIEW OF THE MERITS. derived from Convention art. 24**

10 A tribunal of this State may not review the merits of a support order presented to be  
11 recognized or enforced, but shall resolve a contest of the validity of the order as provided in  
12 Sections 601-608.

13 *Reporter's note. This provision is likely to be controversial, despite the fact that it makes*  
14 *perfect sense if the foreign tribunal had personal jurisdiction to decide the issue.*

15  
16 Article 24 No review of the merits

17 There shall be no review by any competent authority of the State addressed of the merits of a  
18 decision.  
19

20 *Reporter's note. Convention Articles 25-27, and Chapters VI to IX pose questions about which*  
21 *provisions, if any, to include in UIFSA. Sections 25 through 27 have been rewritten, UIFSA*  
22 *probably already contains these requirements. That duplication of effort is even clearer for*  
23 *Convention Articles 28-33. Some of Convention Articles 34-51 may be included, but the advice of*  
24 *the committee and observers is needed on which those might be. The first section of this*  
25 *document directs tribunals to apply state law unless amended by the provisions in this new*  
26 *UIFSA Article 7 should suffice most of the time.*  
27

28 ~~Article 25 Physical presence of the child or applicant~~

29 ~~[The physical presence of the child or applicant shall not be required in any proceedings in the~~  
30 ~~requested State under this Chapter.]~~  
31

32 *Reporter's note. UIFSA Section 316(a) fulfills the object of Convention Article 25.*  
33

34 **[SECTION 731. AUTHENTIC INSTRUMENTS AND PRIVATE AGREEMENTS.**

35 **derived from Convention art. 26**

1 (a) An authentic instrument or a private agreement regarding support of a child, spouse,  
2 or former spouse made by a foreign tribunal shall be entitled to recognition and enforcement by a  
3 tribunal of this State as a support order under this [Article] if it is enforceable as a support order  
4 in the initiating foreign country.

5 (b) A [petition] for recognition and enforcement of an authentic instrument or a private  
6 agreement must be accompanied by:

7 (1) a complete text of the authentic instrument or of the private agreement;

8 (2) a document stating that the particular authentic instrument or private  
9 agreement is enforceable as a support order in the initiating foreign country.

10 (c) Recognition and enforcement of an authentic instrument or a private agreement may  
11 be refused if:

12 (1) the recognition and enforcement is manifestly incompatible with the public  
13 policy of this State;

14 (2) the authentic instrument or the private agreement was obtained by fraud or  
15 falsification;

16 [(3) the authentic instrument or the private agreement is incompatible with a  
17 support order rendered between the same parties and having the same purpose, either in this State  
18 or in another State or foreign country, provided that this latter support order fulfils the conditions  
19 necessary for its recognition and enforcement in this State. ]

20 (d) Proceedings for recognition and enforcement of an authentic instrument or a private  
21 agreement shall be suspended if proceedings concerning its validity are pending before  
22 competent authority.

23 (e) A [petition] for recognition and enforcement of authentic instruments and private

1 agreements shall not be made directly to a tribunal of this State.]

2 *Reporter's note. This bracketed provision was strongly opposed by members of the ULC*  
3 *executive committee. It may be the subject of a reservation by the U.S. If no reservation is taken,*  
4 *the federal government will need to declare what is "manifestly incompatible with the public*  
5 *policy" of the United States. Leaving that decision to individual States would result in chaos.*  
6

7 [Article 26 Authentic instruments and private agreements

8 1. An authentic instrument or a private agreement made in a Contracting State shall be entitled to  
9 recognition and enforcement as a decision under this Chapter provided that it is enforceable as a  
10 decision in the State of origin.

11 2. An application for recognition and enforcement of an authentic instrument or a private  
12 agreement shall be accompanied by the following –

13 a) a complete text of the authentic instrument or of the private agreement;

14 b) a document stating that the particular authentic instrument or private agreement is enforceable  
15 as a decision in the State of origin.

16 3. Recognition and enforcement of an authentic instrument or a private agreement may be  
17 refused if –

18 a) the recognition and enforcement is manifestly incompatible with the public policy of the  
19 requested State;

20 b) the authentic instrument or the private agreement was obtained by fraud or falsification;

21 c) the authentic instrument or the private agreement is incompatible with a decision rendered  
22 between the same parties and having the same purpose, either in the State addressed or in another  
23 State, provided that this latter decision fulfils the conditions necessary for its recognition and  
24 enforcement in the State addressed.

25 4. The provisions of this Chapter, with the exception of Articles 17, 19, 20(7) and 21(1) and (2),  
26 shall apply mutatis mutandis to the recognition and enforcement of a private agreement or  
27 authentic instrument save that –

28 a) a declaration or registration in accordance with Article 20(4) may be refused only for the  
29 reasons specified in [paragraph 3] [paragraph 3 a)]; and

30 b) a challenge or appeal as referred to in Article 20(6) may be founded only on the following –

31 i) the grounds for refusing recognition and enforcement set out in Article 26(3);

32 ii) the authenticity, veracity or integrity of any document transmitted in accordance with  
33 Article 26(2).

34 5. Proceedings for recognition and enforcement of an authentic instrument or a private agreement  
35 shall be suspended if proceedings concerning its validity are pending before a competent  
36 authority.

37 6. A State may declare that applications for recognition and enforcement of authentic instruments  
38 and private agreements shall not be made directly to a competent authority.]  
39

## 40 **SECTION 732. RECIPROCAL ARRANGEMENTS INVOLVING THE USE OF**

41 **PROVISIONAL AND CONFIRMATION ORDERS. derived from Convention art. 27**

1 If a support order is produced by the combined effect of a provisional support order made  
2 by a tribunal in one foreign country and a support order is made by a tribunal in another foreign  
3 country confirming the provisional order:

4 (1) each tribunal shall be deemed for the purposes of this [Article] to be an  
5 initiating foreign tribunal;

6 (2) the requirements of Section QQQ [**Convention art. 19 e**] shall be met if the  
7 respondent had proper notice of the proceedings in the confirming jurisdiction and an  
8 opportunity to oppose the confirmation of the provisional order; and

9 (3) the requirement of Section QQQ [**Convention art. 17(6)**] that a support order  
10 be enforceable in the initiating foreign country shall be met if the support order is enforceable in  
11 the confirming State.

12 *Reporter's note: Although this procedure may seem bewildering to those encountering it*  
13 *for the first time, it has been a part of the relationship between U.S. authorities and*  
14 *Commonwealth countries, especially the Canadian provinces, for a very long time. In fact,*  
15 *UIFSA Section 304(b) was designed to facilitate this process, but the Convention explains the*  
16 *procedure more clearly.*

17  
18 [Article 27 Reciprocal arrangements involving the use of provisional and confirmation orders  
19 Where a decision is produced by the combined effect of a provisional order made in one State  
20 and an order by an authority in another State ("the confirming State") confirming the provisional  
21 order –

22 a) each of those States shall be deemed for the purposes of this Chapter to be a State of origin;

23 b) the requirements of Article 19 e) shall be met if the respondent had proper notice of the  
24 proceedings in the confirming State and an opportunity to oppose the confirmation of the  
25 provisional order; and

26 c) the requirement of Article 17(6) that a decision be enforceable in the State of origin shall be  
27 met if the decision is enforceable in the confirming State.]  
28

29 **PART 4. MODIFICATION OF SUPPORT ORDER INVOLVING PARTY OR**  
30 **CHILD RESIDING IN FOREIGN COUNTRY. not derived from Convention VI**

31 *Reporter's note. As previously mentioned, the terms "modify" and "modification" are often*

employed in the text of the Convention, but many questions go unanswered. UIFSA may legitimately fill these gaps.

**SECTION 751 [615]. ~~RECOGNITION OF~~ ESTABLISHING CHILD SUPPORT ORDER INVOLVING FOREIGN TRIBUNAL WHEN MODIFICATION NOT AVAILABLE.**

(a) If a foreign tribunal ~~[country or political subdivision that is a State]~~ will not or may not modify its order pursuant to its laws, a tribunal of this State may assume jurisdiction to modify the child-support order and bind all individuals subject to the personal jurisdiction of the tribunal. ~~[whether or not the e]~~ Consent to modification of a child-support order otherwise required of the individual pursuant to Section 611 is not required. ~~[been given or whether t]~~ The individual seeking modification may be ~~[is]~~ a resident of this State or of the foreign country ~~[or political subdivision].~~

(b) An order issued pursuant to this section is the controlling order.

*Reporter's note. This revision of UIFSA § 615 is consistent with Article 15 2. c), which limits proceedings initiated by the debtor when the creditor remains in the issuing state. The contemplation here is that the creditor will seek modification, but will be unable to obtain it because the debtor will not appear to defend or the creditor must appear in a distant forum.*

**SECTION 752. RECOGNITION AND ENFORCEMENT OF MODIFICATION OF SUPPORT ORDER INVOLVING PARTY OR CHILD RESIDING IN FOREIGN COUNTRY. not derived from Convention**

(a) A tribunal of this State shall apply the provisions of this Act to register and enforce a modification of a support order of a foreign country if:

(1) the modification was rendered by the issuing tribunal; or

(2) the order has previously been recognized and enforced by a tribunal of this

1 State or another state;

2 (b) Except as provided in subsection (a), a tribunal of this State shall apply the provisions  
3 of this Act to register and enforce a modification of an order of a foreign country rendered by a  
4 tribunal other than the issuing tribunal if:

5 (1) the modification is recognized to be enforceable by the issuing tribunal, which  
6 does not claim continuing jurisdiction over the order; and

7 (2) the tribunal that modified the support order did so under similar factual  
8 circumstances that would confer jurisdiction on a tribunal of this State.

9 (c) If the tribunal of this State cannot register and enforce the modification decision  
10 because the factual circumstances would not provide personal jurisdiction over an individual  
11 party, the tribunal shall take all appropriate measures to establish a support order if it may assert  
12 personal jurisdiction over the individual parties.

13 *Reporter's note. Because in the rest of the world the residence of the obligee (creditor) and child*  
14 *is determinative of jurisdiction to establish and modify a support order, the issue of personal*  
15 *jurisdiction over the obligor (creditor) is basically moot. This distinction forms the basis of*  
16 *Article 17 Bases for Recognition and Enforcement, infra. The ability of the United States to take*  
17 *a reservation regarding creditor-based jurisdiction is agreed in Article 17 2). This provision*  
18 *takes that agreement an identical step forward with regard to a modification of the original*  
19 *support order.*

20  
21 **SECTION 753. MODIFICATION OF DOMESTIC CHILD SUPPORT ORDER**  
22 **INVOLVING FOREIGN COUNTRY. not derived from Convention**

23 (a) A tribunal of this State may register and modify a child support order of another State  
24 as provided by Sections 609 to 610 and 612 to 614, without regard to the restrictions on  
25 modification of a support order stated in Sections 201 (b) and 611 if:

26 (1) the child support order involves an obligor or obligee residing in a foreign  
27 country;

(2) the issuing State lacks continuing exclusive jurisdiction to modify its order under Section 205; and

(3) this State is the home state of the child or the State of residence of the party remaining in the United States.

*Reporter's note. In drafting UIFSA 1992 critical choices were made regarding modification of an existing child support order when all parties and the child had left the issuing State. First, the original order was to remain in force as the controlling order until modified. Second, the issue was what to do when the parties resided in different States. The deciding factor centered on the undesirable effect of ambush jurisdiction. The drafting committee objected to the possibility that the parties would vie to strike first to obtain a home town advantage. Arguably this could discourage continued contact with the children by the obligor for fear of a lawsuit in a distant forum. Thus, modification in a forum with long-arm personal jurisdiction over both parties was to be avoided. Indeed, repeated modification suits were to be avoided. Ultimately, an alternative was produced, which has come to be known as "the movant must play an away game," as exemplified in Section 611.*

*The requirements of Section 611, and the prohibition against assertion of long-arm jurisdiction in the international context makes much less sense. Only because the United States is wedded to personal jurisdiction does this issue arise; a foreign country will regard the support order to be one of the country or political subdivision, and jurisdiction is based on the creditor's residence. Consideration was given to labeling a support order of a State as an order of the United States. Conforming modification to the general principles of state-control of the subject matter through UIFSA, with an exception for appropriate assertion of long-arm jurisdiction, seems the more conservative approach. Of course, the movant may also choose to seek modification in the other party's place of residence.*

### **PART 3. ENFORCEMENT BY TRIBUNAL OF THIS STATE (CONTINUED). derived from Convention Chapters VI-VII [in progress]**

#### **CHAPTER VI – ENFORCEMENT BY THE REQUESTED STATE**

##### **Article 28 Enforcement under national law**

1. Subject to the provisions of this Chapter, enforcement shall take place in accordance with the law of the State addressed.
2. Enforcement shall be prompt.
3. In the case of applications through Central Authorities, where a decision has been declared enforceable or registered for enforcement under Chapter V, enforcement shall proceed without the need for further action by the applicant.



1 4. Effect shall be given to any rules applicable in the State of origin of the decision relating to the  
2 duration of the maintenance obligation.

3 5. Any limitation on the period for which arrears may be enforced shall be determined either by  
4 the law of the State of origin of the decision or by the law of the State addressed, whichever  
5 provides for the longer limitation period.

#### 6 7 Article 29 Non-discrimination

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

#### 10 11 Article 30 Enforcement measures

12 1. Contracting States shall make available in domestic law effective measures to enforce  
13 decisions under this Convention.

14 [2. Such measures may include –

15 a) wage withholding;

16 b) garnishment from bank accounts and other sources;

17 c) deductions from social security payments;

18 d) lien on or forced sale of property;

19 e) tax refund withholding;

20 f) withholding or attachment of pension benefits;

21 g) credit bureau reporting;

22 h) denial, suspension or revocation of various licenses (for example, driving licenses).]

#### 23 24 Article 31 Transfer of funds

25 1. Contracting States are encouraged to promote, including by means of international  
26 agreements, the use of the most cost-effective and efficient methods available to transfer funds  
27 payable as maintenance.

28 2. A Contracting State, under whose law the transfer of funds is restricted, shall accord the  
29 highest priority to the transfer of funds payable under this Convention.

#### 30 31 Article 32 Information concerning enforcement rules and procedures

32 Contracting States, at the time of becoming a Party to this Convention, shall provide the  
33 Permanent Bureau of the Hague Conference with a description of their enforcement rules and  
34 procedures, including any debtor protection rules. Such information shall be kept up-to-date by  
35 the Contracting States.

1 CHAPTER VII – PUBLIC BODIES

3 Article 33 Public bodies as applicants

4 1. For the purposes of applications for recognition and enforcement under Article 10(1),  
5 “creditor” includes a public body acting in place of an individual to whom maintenance is owed  
6 or one to which reimbursement is owed for benefits provided in lieu of maintenance.

7 2. The right of a public body to act in place of an individual to whom maintenance is owed or to  
8 seek reimbursement of benefits provided to the creditor in place of maintenance shall be  
9 governed by the law to which the body is subject.

10 3. A public body may seek recognition or claim enforcement of –

11 a) a decision rendered against a debtor on the application of a public body which claims payment  
12 of benefits provided in place of maintenance;

13 b) a decision rendered between a creditor and debtor to the extent of the benefits provided to the  
14 creditor in place of maintenance.

15 4. The public body seeking recognition or claiming enforcement of a decision shall upon request  
16 furnish any document necessary to establish its right under paragraph 2 and that benefits have  
17 been provided to the creditor.

19 **PART 5. GENERAL PROVISIONS. derived from Convention Chapter VIII [in progress]**

21 *Reporter’s note. Most of the General Provisions in Chapter VIII do not direct action to be taken*  
22 *by a tribunal or agency of a U.S. State, or directs action that is already covered by the law of the*  
23 *State. As a preliminary judgment, those that seem not relevant to UIFSA by strikeout. Those*  
24 *already covered by plain text, and those that are possible/likely/necessary for inclusion in bold.*  
25 *Please note disagreement.*

26 CHAPTER VIII – GENERAL PROVISIONS

28 Article 34 Direct requests to competent authorities

29 1. This Convention does not exclude the possibility of recourse to such procedures as may be  
30 available under the national law of a Contracting State allowing a person (an applicant) to seize  
31 directly a competent authority of that State in a matter governed by this Convention including,  
32 subject to Article 15, for the purpose of having a maintenance decision established or modified.

33 2. However, Article 14(5) and (6)9 and the provisions of Chapters V, VI and VII shall apply in  
34 relation to a request for recognition and enforcement made directly to a competent authority in a  
35 Contracting State.

37 *Reporter’s note. Convention arts. 35-36-37, below, are covered in UIFSA Section 312.*

1 Article 35 Protection of personal information

2 Personal information gathered or transmitted under the Convention shall be used only for the  
3 purposes for which it was gathered or transmitted.

4  
5 Article 36 Confidentiality

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

8  
9 Article 37 Non disclosure of information

10 1. An authority shall not disclose or confirm information gathered or transmitted in application  
11 of this Convention if it determines that to do so could jeopardise the health, safety or liberty of a  
12 person.

13 2. A determination to this effect made by one Central Authority shall be binding on another  
14 Central Authority.

15 3. Nothing in this provision shall impede the gathering and transmitting of information  
16 between authorities.

17  
18 ~~Article 38 No legalisation~~

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

20  
21 ~~[Article 39 Power of attorney~~

22 ~~The Central Authority of the requested State may require a power of attorney from the applicant~~  
23 ~~only if it acts as legal representative in judicial proceedings or before other authorities.]~~

24  
25 Article 40 Recovery of costs

26 1. Recovery of any costs incurred in the application of this Convention shall not take precedence  
27 over the recovery of maintenance.

28 2. Nothing in this Convention shall prevent the recovery of costs from an unsuccessful  
29 party.

30  
31 **Article 41 Language requirements**

32 **1. Any application and related documents shall be in the original language, and shall be**  
33 **accompanied by a translation into an official language of the requested State or in another**  
34 **language which the requested State has indicated, by way of declaration in accordance with**  
35 **Article 58, it will accept, unless the competent authority of that State dispenses with**  
36 **translation.**

37 **2. A Contracting State which has more than one official language and cannot, for reasons**  
38 **of internal law, accept for the whole of its territory documents in one of those languages**  
39 **shall by declaration in accordance with Article 58 specify the language in which such**  
40 **documents or translations thereof shall be drawn up for submission in the specified parts**  
41 **of its territory.**

42 **3. Unless otherwise agreed by the Central Authorities, any other communications between**  
43 **such Authorities shall be in an official language of the requested State or in either English**  
44 **or French. However, a Contracting State may, by making a reservation in accordance with**  
45 **Article 57, object to the use of either French or English.**

**Article 42 Means and costs of translation**

**1. In case of applications made under Chapter III, the Central Authorities may agree in an individual case that the translation into an official language of the requested State may be made in the requested State from the original language or from any other agreed language. If no agreement can be reached and it is not possible for the requesting Central Authority to comply with the requirements of Article 41(1) and (2), then the application and related documents may be transmitted with translation into French or English<sup>10</sup> for further translation into an official language of the requested State.**

**2. The cost of translation arising from the application of the preceding paragraph shall be borne by the requesting State unless otherwise agreed by Central Authorities of the States concerned.**

**3. Notwithstanding Article 8, the requesting Central Authority may charge an applicant for the costs of translation of an application and related documents, except insofar as those costs may be covered by its system of legal assistance.**

**Article 43 Non-unified legal systems**

~~1. In relation to a State in which two or more systems of law or sets of rules of law with regard to any matter dealt with in this Convention apply in different territorial units—~~

~~a) any reference to the law or procedure of a State shall be construed as referring, where appropriate, to the law or procedure in force in the relevant territorial unit;~~

~~b) any reference to a decision established, recognised and / or enforced, and modified in that State shall be construed as referring, where appropriate, to a decision established, recognised and / or enforced, and modified in a territorial unit;~~

~~c) any reference to a judicial or administrative authority in that State shall be construed as referring, where appropriate, to a judicial or administrative authority in the relevant territorial unit;~~

~~d) any reference to competent authorities, public bodies, and other bodies of that State, other than Central Authorities, shall be construed as referring, where appropriate, to those authorised to act in the relevant territorial unit;~~

~~e) any reference to residence or habitual residence in that State shall be construed as referring, where appropriate, to residence or habitual residence in a territorial unit;~~

~~f) any reference to location of assets in that State shall be construed as referring, where appropriate, to the assets in the relevant territorial unit.~~

~~2. Notwithstanding the preceding paragraph, a Contracting State with two or more territorial units in which different systems of law apply shall not be bound to apply this Convention to situations which involve solely such different territorial units.~~

~~3. A court in a territorial unit of a Contracting State with two or more territorial units in which different systems of law apply shall not be bound to recognise or enforce a decision from another Contracting State solely because the decision has been recognised or enforced in another territorial unit of the same Contracting State under this Convention.~~

~~4. This Article shall not apply to a Regional Economic Integration Organisation.~~

**Article 44 Co-ordination with prior Hague Maintenance Conventions**

**In relations between the Contracting States, this Convention replaces the Hague Convention of 2 October 1973 on the Recognition and Enforcement of Decisions relating to Maintenance Obligations and the Hague Convention of 15 April 1958 concerning the recognition and**

1 enforcement of decisions relating to maintenance obligations towards children in so far as their  
2 scope of application as between such States coincides with the scope of application of this  
3 Convention.

#### 4 Article 45 Co-ordination of instruments and supplementary agreements

5 1. This Convention does not affect any international instrument to which Contracting States are  
6 Parties and which contains provisions on matters governed by this Convention.

7 2. Any Contracting State may conclude with one or more Contracting States agreements, which  
8 contain provisions on matters governed by this Convention, with a view to improving the  
9 application of this Convention between or among themselves, provided that such agreements are  
10 consistent with the objects and purpose of this Convention and do not affect, in the relationship  
11 of such States with other Contracting States, the application of the provisions of this Convention.  
12 The States which have concluded such an agreement shall transmit a copy to the depositary of  
13 the Convention.

14 3. The preceding paragraphs also apply to reciprocity schemes and uniform laws based on  
15 special ties between the States concerned.

16 4. This Convention shall not affect the application of the rules of a Regional Economic  
17 Integration Organisation that is a Party to this Convention, whether adopted before or after this  
18 Convention, as concerns the recognition or enforcement of decisions as between Member States  
19 of the Regional Economic Integration Organisation.

#### 20 Article 46 Most effective rule

21 This Convention shall not prevent the application of an agreement, arrangement or international  
22 instrument in force between the requesting State and the requested State or other law in force in  
23 the requested State that provides for –

- 24 a) broader bases for recognition of maintenance decisions, without prejudice to Article 19 f) of  
25 the Convention;  
26 b) simplified or more expeditious procedures on an application for recognition or enforcement of  
27 maintenance decisions;  
28 c) more beneficial legal assistance than that provided for under Articles 14, 14 bis and 14 ter.

#### 29 Article 47 Uniform interpretation

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

#### 32 Article 48 Review of practical operation of the Convention

33 1. The Secretary General of the Hague Conference on Private International Law shall at regular  
34 intervals convene a Special Commission in order to review the practical operation of the  
35 Convention and to encourage the development of good practices under the Convention.

36 2. For the purpose of such review Contracting States shall co-operate with the Permanent Bureau  
37 in the gathering of information, including statistics and case law, concerning the practical  
38 operation of the Convention.

#### 39 Article 49 Amendment of forms

40 1. The forms annexed to this Convention may be amended by a decision of a Special  
41 Commission convened by the Secretary General of the Hague Conference on Private  
42  
43  
44  
45  
46

1 International Law to which all Contracting States and all Member States shall be invited. Notice  
2 of the proposal to amend the forms shall be included in the agenda for the meeting.

3 2. Amendments adopted by a majority of the Contracting States present and voting at the Special  
4 Commission shall come into force for all Contracting States on the first day of the seventh  
5 calendar month after the date of their communication by the Secretary General to all Contracting  
6 States.

7 3. During the period provided for by paragraph 2 any Contracting State may by notification in  
8 writing to the depositary make a reservation, in accordance with Article 57, with respect to the  
9 amendment. The State making such reservation shall until the reservation is withdrawn be treated  
10 as a State not a Party to the present Convention with respect to that amendment.

11  
12 [~~Article 50 Transitional provisions~~

13 1. The Convention shall apply in every case where—

14 a) a request pursuant to Article 7 or an application pursuant to Chapter III has been received by  
15 the Central Authority of the requested State after the Convention has entered into force between  
16 the requesting State and the requested State;

17 b) a direct application for recognition and enforcement has been received by the competent  
18 Authority of the State addressed after the Convention has entered into force between the State of  
19 origin and the State addressed.

20 [2. The State addressed shall not be bound under this Convention to enforce a decision[, an  
21 authentic instrument or a private agreement] in respect of payments falling due prior to the entry  
22 into force of the Convention between the State of origin and the State addressed.]]

23  
24 [~~Article 51 Provision of information concerning laws, procedures and services~~

25 1. A Contracting State, by the time its instrument of ratification or accession is deposited, shall  
26 provide the Permanent Bureau of the Hague Conference on Private International Law with—

27 a) a description of its laws and procedures concerning maintenance obligations;

28 b) a description of the measures it will take to meet the obligations under Article 6(2); c) a

29 description of how it will provide applicants with effective access to procedures, as required  
30 under Article 14;

31 d) a description of its enforcement rules and procedures, including any limitations, in particular  
32 limitation periods, on enforcement.

33 2. Contracting States may, in fulfilling their obligations under paragraph 1, utilise the Country  
34 Profile [~~Annex to the Convention~~]. The Country Profile may be amended from time to time by a  
35 Special Commission.

36 3. Information shall be kept up to date by the Contracting States.]

# DRAFT NEW MAINTENANCE CONVENTION

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