

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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For Drafting Committee Meeting, May 9-11, 2008

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May 1, 2008

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## AMENDMENTS TO UNIFORM INTERSTATE FAMILY SUPPORT ACT (2001)

### REPORTER'S NOTE

This drafting approach anticipates a comprehensive revision of UIFSA 2001 in order to integrate the appropriate provisions of the new Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. The Convention was signed by the United States at The Hague, Netherlands, on November 23, 2007. A final version is submitted together with this draft. The goal is to deal only with provisions that directly affect the law of "this State." In my opinion, less than 50% of the 65 articles in the Convention are appropriate to incorporate into an amended UIFSA. Perhaps there will be amendments necessary to other State law, e.g., regulation of the state support enforcement agency. Such amendments are not relevant here, as UIFSA deals only with interstate issues.

Many of the articles in the Convention do not direct action be taken by a tribunal or agency of a U.S. State. A number of the remaining provisions direct action that is already covered by UIFSA, in whole or part, some of which trigger minimal amendments to the existing text. To be sure, the Convention is a complex document that, if ratified, will require significant changes is substantive state law, and even change some state procedural rules. My preliminary conclusions are shown in the Table of Contents, above, which identifies those provisions in the Convention that seem relevant to a redraft of UIFSA.

Please evaluate the draft for possible inclusions and exclusions of provisions of the Convention. The opinions of experts in the field—those who enforce child-support orders—are more persuasive than those of a law professor, no matter how long he has dabbled in the area. The hallmark should be that UIFSA is state law, which by definition is created by a state legislature to regulate the actions of judges, lawyers, and others subject to the law of that State, and only that State.

The approach that follows is relatively simple, i.e., the Convention language is incorporated into a few general categories: (1) does not need to be included because it speaks to the Contacting Country, a.k.a. "Contracting State" in the Convention, or to its "Central Authority"; (2) include the language or the principle of the Convention in the current text of UIFSA (Arts. 1-6) as applicable to domestic as well as international cases; (3) identify the text or principles in the Convention that relate only to international maintenance issues. For these, draft a stand-alone article for UIFSA to direct a "tribunal of this State" on the do's and don'ts unique to the Convention, e.g., reasons to refuse recognition of a foreign support order; and, (4) identify those Convention articles that cause problems re inclusion/exclusion and hope for resolution by the expert observers and members of the drafting committee.



1           **AMENDMENTS TO UNIFORM INTERSTATE FAMILY SUPPORT ACT (2001)**

3                           **ARTICLE 1**

4                           **GENERAL PROVISIONS**

6           **SECTION 101. SHORT TITLE.** This [Act] may be cited as the Uniform Interstate  
7 Family Support Act.

8           **SECTION 102. DEFINITIONS.** In this [Act]:

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

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

14           (3) “Convention” means the Convention on the International Recovery of Child Support  
15 and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007.

16           ~~(3)~~ (4) “Duty of support” means an obligation imposed or imposable by law to provide  
17 support for a child, spouse, or former spouse, including an unsatisfied obligation to provide  
18 support.

19           (5) “Foreign country” means a political entity, including a political subdivision thereof,  
20 that under its law authorizes the issuance of support orders and which has:

21                   (A) been declared under federal law to be a foreign reciprocating country or  
22 political subdivision;

23                   (B) established a reciprocal arrangement for child-support with this State as

1 provided in Section 308;

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

4 (D) ratified the Convention or acceded to the United States with regard to the  
5 Convention.

### 6 **REPORTER'S NOTE**

7  
8 The proposed addition of these stand-alone definitions of iterations of “foreign country”  
9 and “foreign tribunal,” below, are to be read in conjunction with the prior definition of “State,”  
10 infra, which under certain circumstances declared a foreign country or political subdivision to be  
11 a “State.” Defining a foreign country or a political subdivision thereof, e.g., a Canadian province,  
12 as a “State” may be traced back to 1968, where this approach first appeared in the Revised  
13 Uniform Reciprocal Enforcement of Support Act, a.k.a. RURESA. No one thinks a foreign  
14 support order is entitled to Full Faith and Credit. Indeed, such orders of the sister states were  
15 only relatively recently accorded that treatment after congressional action in 1994. Thus,  
16 constitutional analysis is not required; only state statutory issues are involved. Moreover,  
17 asserting that a foreign order be treated “equally” to a sister state order could well result in a  
18 manifestly unfair decision. For example, reading Sections 611 and 615 strictly, modification of a  
19 foreign child-support should be refused under Section 611 if Section 615 is inapplicable, such as  
20 when the obligee-petitioner continues to reside in the issuing foreign country which does modify  
21 its orders. Such application of Section 611 in the State where the obligor resides would frustrate  
22 application of local guidelines that recognize a greatly increased obligation and ability to pay.

23  
24 The terms “foreign order” or “foreign judgment” are used ambiguously in the original  
25 definition, and throughout the Act]. The sense of the usage in UIFSA seems to be “out-of-state,  
26 rather than “out-of-country.” If an international construction is intended, the text is “foreign  
27 country or political subdivision.” After ratification of the Convention, such ambiguity must be  
28 eliminated.

29  
30 (6) “Foreign support order” means a child-support or spousal support order issued by a  
31 foreign tribunal.

32 (7) “Foreign tribunal” means a court, administrative agency, or quasi-judicial entity of a  
33 foreign country authorized to establish, enforce, or modify support orders or to determine  
34 parentage. As provided by the Convention, the term includes a “competent authority,” which  
35 may be a judicial or administrative authority in a proceeding in a foreign country.

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

~~(5)~~ (9) “Income” includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this State.

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

(7) (11) “Initiating State or foreign country” means a State or foreign country 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].

(8) (12) “Initiating tribunal” means the authorized tribunal of an initiating State or foreign country.

## REPORTER'S NOTE

The process of an “initiating tribunal” in one State that vets an outgoing request for child-support in a proceeding and then forwards that proceeding to a tribunal in another State is an anachronism, left over from the days of URESA/RURESA which ended for all States in 1998. Indeed, such actions were statutorily reserved to “courts” until the advent of UIFSA, beginning in 1993. Similarly, the process of filing that “proceeding” initiated elsewhere in a “responding tribunal” is equally an anachronism, see subsection 24, *infra*. Experience with the actual practice of support enforcement in the United States since 1993 has demonstrated that the URESA procedure is no longer utilized.

Further, such a process is inconsistent with the Convention, which employs procedures involving central authority to central authority or direct requests. It is also inconsistent with the actual practice of IV-D agencies and private practitioners in this country. Moreover, if anyone still employs this process, UIFSA should end that practice, which amounts to a waste of judicial resources to accomplish a basically irrelevant action. I suggest deleting the definitions of

1 “initiating tribunal,” and “initiating State,” which are no longer viable. See additional suggested  
2 amendments to Article 3, infra.

3  
4 ~~(9)~~ (13) “Issuing State or foreign country” means the State or foreign country in which a  
5 tribunal issues a support order or issues a judgment determining parentage.

6 ~~(10)~~ (14) “Issuing tribunal” means the tribunal of a State or foreign country that issues a  
7 support order or issues a judgment determining parentage.

8 ~~(11)~~ (15) “Law” includes decisional and statutory law and rules and regulations having  
9 the force of law.

10 (16) “Nonparticipating country” means a political entity, including a political subdivision  
11 thereof, that is not a foreign country under subsection (5), but under its law authorizes the  
12 issuance of support orders that may be found to be entitled to recognition on the basis of comity.

13 ~~(12)~~ (17) “Obligee” means:

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

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

20 (C) an individual seeking a judgment determining parentage of the individual’s  
21 child; or

22 (D) an individual or entity named as a “creditor” as provided by the Convention.

23 ~~(13)~~ (18) “Obligor” means an individual, or the estate of a decedent:

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

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

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

2 (D) who is named as a “debtor” as provided by the Convention.

3 ~~(14)~~ (19) “Person” means an individual, corporation, business trust, estate, trust,  
4 partnership, limited liability company, association, joint venture, government, governmental  
5 subdivision, agency, or instrumentality, public corporation, or any other legal or commercial  
6 entity.

7 ~~(15)~~ (20) “Record” means information that is inscribed on a tangible medium or that is  
8 stored in an electronic or other medium and is retrievable in perceivable form.

9 ~~(16)~~ (21) “Register” means to [record; file] in a tribunal of this State a support order or  
10 judgment determining parentage issued by a tribunal of another State or foreign country. ~~[in the~~  
11 ~~appropriate location for the recording or filing of foreign judgments or support orders generally~~  
12 ~~or foreign support orders specifically].~~

13 ~~(17)~~ (22) “Registering tribunal” means a tribunal in which a support order or judgment  
14 determining parentage is registered.

15 ~~(18)~~ (23) “Responding State” or “responding foreign country” means a State or foreign  
16 country in which a proceeding is filed or to which a proceeding is forwarded for filing from an  
17 initiating State or foreign country under this [Act] or a law or procedure substantially similar to  
18 this [Act].

19 ~~(19)~~ (24) “Responding tribunal” means the authorized tribunal in a responding State or  
20 foreign country.

21 ~~(20)~~ (25) “Spousal-support order” means a support order for a spouse or former spouse of  
22 the obligor.

23 ~~(21)~~ (26) “State” means a State of the United States, the District of Columbia, Puerto

1 Rico, the United States Virgin Islands, or any territory or insular possession subject to the  
2 jurisdiction of the United States. The term includes: ~~(A)~~ an Indian tribe.

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

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

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

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

#### 10 **REPORTER'S NOTE**

11  
12 The amended definition of "State" eliminates the fiction that a foreign country can be a  
13 U.S. State, and clarifies and implements the purpose of the Act to enforce an international  
14 support order under state law. In addition, in several provisions of UIFSA the term "State"  
15 clearly is intended to refer only to a State of the United States. If the Senate gives its advice and  
16 consent to the Convention and is it signed by the President, the federal preemption of the issue  
17 via the treaty clause will be sufficient to accomplish that goal, U. S. Const. Art. VI., cl. 2.  
18 However, because the treaty is not self-executing, additional federal or state statutory enactments  
19 are necessary to enable the treaty and make it readily accessible to bench and bar. Further,  
20 UIFSA may supply answers to questions the Convention leaves unresolved. This is particularly  
21 clear with regard to modification of existing orders when the parties have moved from the  
22 issuing state or foreign country, or other factual circumstances have changed significantly.

23  
24 Another problem is presented by the fact that in the U.S. the term "foreign order" often  
25 means an order from whatever source outside of the particular State, and most often relates to an  
26 order of a sister State. Ultimately it will be best to avoid the term "foreign order," and refer to  
27 "an foreign support order." Although somewhat awkward, this terminology is unambiguous.  
28

29 ~~(22)~~ (27) "Support enforcement agency" means a public official or agency authorized to  
30 seek:

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

32 (B) establishment or modification of child-support;

1 (C) determination of parentage;

2 (D) location of obligors or their assets; or

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

4 ~~(23)~~ (28) “Support order” means a judgment, decree, order, decision, or directive,  
5 whether temporary, final, or subject to modification, issued by a tribunal, for the benefit of a  
6 child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages,  
7 retroactive support or reimbursement, and may include related costs and fees, interest, income  
8 withholding, automatic adjustment by indexation, attorney’s fees, and other relief.

9 ~~(24)~~ (29) “Tribunal” means a court, administrative agency, or quasi-judicial entity  
10 authorized to establish, enforce, or modify support orders or to determine parentage.

11 **SECTION 103. TRIBUNAL OF STATE.** The [court, administrative agency, quasi-  
12 judicial entity, or combination] [is the tribunal] [are the tribunals] of this State.

13 **SECTION 104. REMEDIES CUMULATIVE.**

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

17 (b) If a tribunal of this State recognizes a support order of a nonparticipating country on  
18 the basis of comity, the tribunal may use the procedural and substantive provisions of Articles 1-  
19 6 of this [Act] as may be appropriate.

20 ~~(b)~~ (c) This [Act] does not:

21 (1) provide the exclusive method of establishing or enforcing a support order  
22 under the law of this State; or

23 (2) grant a tribunal of this State jurisdiction to render judgment or issue an order

1 relating to [child custody or visitation] in a proceeding under this [Act].

2           **SECTION 105. APPLICATION OF [ACT] TO RESIDENT OF FOREIGN**  
3 **COUNTRY AND FOREIGN SUPPORT ORDER.**

4           (a) A tribunal of this State shall apply [Articles 1-6], and as appropriate [Article 7], to a  
5 support proceeding involving a foreign support order, a foreign tribunal, or an obligee, obligor,  
6 or a child residing in a foreign country.

7           (b) [Article 7] of this [Act] applies only to a support proceeding subject to the Convention.  
8 If a provision of [Articles 1-6] is inconsistent with a provision of [Article 7], the provision of  
9 [Article 7] controls.



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(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~~ this State to modify a child-support order issued by a tribunal of another State unless the requirements of Section 611 or 615 are met, or, in the case of a foreign support order, unless the requirements of Section 615 are met.

#### **REPORTER'S NOTE**

Section 201(b) solidifies 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, the application of local law is entitled to recognition and enforcement, Full Faith and Credit for Child Support Orders Act, a.k.a. FFCCSOA, 28 USC 1738B.

As implied by new Section 707, most, if not all, foreign countries recognize and enforce a child-support order based on the residence of the obligee or the child. The U.S. requirement of personal jurisdiction over the obligor is generally regarded abroad as an idiosyncratic error. Nonetheless, the new Convention requires recognition of U.S. orders based on long-arm jurisdiction asserted over the obligor, a.k.a. "debtor." Of course, in such cases the U.S. tribunal also has jurisdiction over the obligee, a.k.a. "creditor." From the perspective of a foreign tribunal, such an order is valid even though the U.S. tribunal requires a personal nexus between the parties and the State tribunal as described in this section

**SECTION 202. DURATION OF PERSONAL JURISDICTION.** Personal jurisdiction acquired by a tribunal of this State in a proceeding under this [Act] or other law of this State relating to a support order continues as long as a tribunal of this State has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by Sections 205, 206, and 211.

**SECTION 203. INITIATING AND RESPONDING TRIBUNAL OF STATE.**  
Under this [Act], a tribunal of this State may serve as an initiating tribunal to forward proceedings to another State or foreign country and as a responding tribunal for proceedings initiated in another State or foreign country.

1           **SECTION 204. SIMULTANEOUS PROCEEDINGS.**

2           (a) Except as otherwise provided in Section 711, A a tribunal of this State may exercise  
3 jurisdiction to establish a support order if the [petition] or comparable pleading is filed after a  
4 pleading is filed in another State or foreign country only if:

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

8                   (2) the contesting party timely challenges the exercise of jurisdiction in the other  
9 State or foreign country; and

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

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

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

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

19                  (3) if relevant, the other State or foreign country is the home State of the child.

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

22           (a) A tribunal of this State that has issued a child-support order consistent with the law of  
23 this State has and shall exercise continuing, exclusive jurisdiction to modify its child-support

1 order if the order is the controlling order and:

2 (1) at the time of the filing of a request for modification this State is the residence  
3 of the obligor, the individual obligee, or the child for whose benefit the support order is issued;

4 or

5 (2) even if this State is not the residence of the obligor, the individual obligee, or  
6 the child for whose benefit the support order is issued, the parties consent in a record or in open  
7 court that the tribunal of this State may continue to exercise jurisdiction to modify its order.

8 (b) A tribunal of this State that has issued a child-support order consistent with the law of  
9 this State may not exercise continuing, exclusive jurisdiction to modify the order if:

10 (1) all of the parties who are individuals file consent in a record with the tribunal  
11 of this State that a tribunal of another State that has jurisdiction over at least one of the parties  
12 who is an individual or who is located in the State of residence of the child may modify the order  
13 and assume continuing, exclusive jurisdiction; or

14 (2) its order is not the controlling order.

15 (c) If a tribunal of another State has issued a child-support order pursuant to [the Uniform  
16 Interstate Family Support Act] or a law substantially similar to that Act which modifies a child-  
17 support order of a tribunal of this State, tribunals of this State shall recognize the continuing,  
18 exclusive jurisdiction of the tribunal of the other State.

19 (d) A tribunal of this State that lacks continuing, exclusive jurisdiction to modify a child-  
20 support order may serve as an initiating tribunal to a tribunal of another State to modify a support  
21 order issued in that State.

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

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

3           (a) A tribunal of this State that has issued a child-support order consistent with the law of  
4 this State may serve as an initiating tribunal to request a tribunal of another State or foreign  
5 country to enforce:

6                   (1) the order if the order is the controlling order and has not been modified by a  
7 tribunal of another State that assumed jurisdiction pursuant to the [Uniform Interstate Family  
8 Support Act]; or

9                   (2) a money judgment for arrears of support and interest on the order accrued  
10 before a determination that an order of a tribunal of another State is the controlling order.

11           (b) A tribunal of this State having continuing~~;~~ jurisdiction over a support order may act as  
12 a responding tribunal to enforce the order.

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

15           (a) If a proceeding is brought under this [Act] and only one tribunal has issued a child-  
16 support order, the order of that tribunal controls and must be so recognized.

17           (b) Except as otherwise provided in Section 711, ~~If~~ if a proceeding is brought under this  
18 [Act], and two or more child-support orders have been issued by tribunals of this State or another  
19 State or foreign country with regard to the same obligor and same child, a tribunal of this State  
20 having personal jurisdiction over both the obligor and individual obligee shall apply the  
21 following rules and by order shall determine which order controls:

22                   (1) if only one of the tribunals would have continuing, exclusive jurisdiction  
23 under this [Act], the order of that tribunal controls and must be so recognized.

1 (2) if more than one of the tribunals would have continuing, exclusive jurisdiction  
2 under this [Act]:

3 (A) an order issued by a tribunal in the current home State of the child  
4 controls; but

5 (B) if an order has not been issued in the current home State of the child,  
6 the order most recently issued controls.

7 (3) if none of the tribunals would have continuing, exclusive jurisdiction under  
8 this [Act], the tribunal of this State shall issue a child-support order, which controls.

9 (c) If two or more child-support orders have been issued for the same obligor and same  
10 child, upon request of a party who is an individual or a support enforcement agency, a tribunal of  
11 this State having personal jurisdiction over both the obligor and the obligee who is an individual  
12 shall determine which order controls under subsection (b). The request may be filed with a  
13 registration for enforcement or registration for modification pursuant to Article 6, or may be filed  
14 as a separate proceeding.

15 (d) A request to determine which is the controlling order must be accompanied by a copy  
16 of every child-support order in effect and the applicable record of payments. The requesting  
17 party shall give notice of the request to each party whose rights may be affected by the  
18 determination.

19 (e) The tribunal that issued the controlling order under subsection (a), (b), or (c) has  
20 continuing jurisdiction to the extent provided in Section 205 or 206.

21 (f) A tribunal of this State that determines by order which is the controlling order under  
22 subsection (b)(1) or (2) or (c), or that issues a new controlling order under subsection (b)(3),  
23 shall state in that order:

1 (1) the basis upon which the tribunal made its determination;

2 (2) the amount of prospective support, if any; and

3 (3) the total amount of consolidated arrears and accrued interest, if any, under all  
4 of the orders after all payments made are credited as provided by Section 209.

5 (g) Within [30] days after issuance of an order determining which is the controlling order,  
6 the party obtaining the order shall file a certified copy of it in each tribunal that issued or  
7 registered an earlier order of child-support. A party or support enforcement agency obtaining the  
8 order that fails to file a certified copy is subject to appropriate sanctions by a tribunal in which  
9 the issue of failure to file arises. The failure to file does not affect the validity or enforceability of  
10 the controlling order.

11 (h) An order that has been determined to be the controlling order, or a judgment for  
12 consolidated arrears of support and interest, if any, made pursuant to this section must be  
13 recognized in proceedings under this [Act].

14 **REPORTER'S NOTE**

15  
16 The only significant difference between this section and Section 204 is that the “home  
17 state” of the child is not the first tiebreaker. Unfortunately, the Convention establishes “most  
18 recent” as the tiebreaker, rather than the “home state” which better fits U.S. law. The disparity  
19 must be recognized in Article 7.  
20

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

22 In responding to registrations or [petitions] for enforcement of two or more child-support orders  
23 in effect at the same time with regard to the same obligor and different individual obligees, at  
24 least one of which was issued by a tribunal of another State or foreign country, a tribunal of this  
25 State shall enforce those orders in the same manner as if the orders had been issued by a tribunal  
26 of this State.

**SECTION 209. CREDIT FOR PAYMENTS.** A tribunal of this State shall credit amounts collected for a particular period pursuant to any child-support order against the amounts owed for the same period under any other child-support order for support of the same child issued by a tribunal of this or another State or foreign country.

**SECTION 210. APPLICATION OF [ACT] TO NONRESIDENT SUBJECT TO PERSONAL JURISDICTION.** A tribunal of this State exercising personal jurisdiction over a nonresident pursuant to Section 201 of this [Act]; or ~~under~~ other law of this State relating to a support order, may receive evidence from outside this State pursuant to Section 316, communicate with a tribunal outside this State pursuant to Section 317, and obtain discovery through a tribunal outside this State pursuant to Section 318. In all other respects, Articles 3 through 6 ~~7~~ do not apply and the tribunal shall apply the procedural and substantive law of this State.

## REPORTER'S NOTE

A tribunal of this State may not exercise personal jurisdiction based on the law of a foreign country, but is free to recognize an order based on comity. The tribunal is also free to employ internationally other procedural and evidentiary provisions of the Act without constraint.

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

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

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



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

3 (1) an initiating tribunal to request a tribunal of another State or foreign country to  
4 enforce the spousal-support order issued in this State; or

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

6 **SECTION 212. APPLICATION OF [ACT] TO NONPARTICIPATING**  
7 **COUNTRY.** A tribunal of this State that is requested to recognize and enforce a support order  
8 of a nonparticipating country on the basis of comity may apply the procedural and substantive  
9 provisions of [Articles 1-6] of this [Act] as appropriate.

#### 10 **REPORTER'S NOTE**

11  
12 The amendments to Section 211 continue the decision made first in UIFSA 1992 that  
13 declined modification of a spousal support order. The same treatments is to be accorded to an  
14 order by a foreign tribunal. The bases of this decision are explained in the UIFSA 2001  
15 Comment as follows:

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

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

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

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

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

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

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

14                   (1) to the responding tribunal or appropriate support enforcement agency in the  
15 responding State or foreign country; or

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

19           (b) If requested by the responding tribunal, a tribunal of this State shall issue a certificate  
20 or other document and make findings required by the law of the responding State or foreign  
21 country. If the responding ~~State tribunal~~ is in a foreign country ~~or political subdivision~~, upon  
22 request the tribunal of this State shall specify the amount of support sought, convert that amount  
23 into the equivalent amount in the foreign currency under applicable official or market exchange

1 rate as publicly reported, and provide any other documents necessary to satisfy the requirements  
2 of the responding foreign ~~State~~ tribunal.

3 **REPORTER'S NOTE**  
4

5 The directives regarding foreign currency issues in Sections 304, 305, and 307, are  
6 specifically directed to a tribunal "of this State," and do not affect the order going to, or coming  
7 from the foreign country.  
8

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

10 (a) When a responding tribunal of this State receives a [petition] or comparable pleading  
11 from an initiating tribunal or directly pursuant to Section 301(b), it shall cause the [petition] or  
12 pleading to be filed and notify the [petitioner] where and when it was filed.

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

15 (1) establish or enforce a support order, modify a child-support order, determine  
16 the controlling child-support order, or determine parentage;

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

19 (3) order income withholding;

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

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

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

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

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

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

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

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

6 (12) grant any other available remedy.

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

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

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

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

19 **REPORTER'S NOTE**

20  
21 See Convention art. 19.  
22

23 **SECTION 306. INAPPROPRIATE TRIBUNAL.** If a [petition] or comparable  
24 pleading is received by an inappropriate tribunal of this State, the tribunal shall forward the  
25 pleading and accompanying documents to an appropriate tribunal in this State or another State

1 and notify the [petitioner] where and when the pleading was sent.

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

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

5 (b) A support enforcement agency of this State that is providing services to a [petitioner]  
6 shall:

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

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

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

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

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

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

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

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

22 (2) if two or more child-support orders exist and the identity of the controlling  
23 order has not been determined, to ensure that a request for such a determination is made in a

1 tribunal having jurisdiction to do so.

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

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

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

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

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

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

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

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

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

5           (b) The state information agency shall:

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

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

11                  (3) forward to the appropriate tribunal in the [county] in this State in which the  
12 obligee who is an individual or the obligor resides, or in which the obligor's property is believed  
13 to be located, all documents concerning a proceeding under this [Act] received from an initiating  
14 tribunal or the state information agency of the initiating State or foreign country; and

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

21           **SECTION 311. PLEADINGS AND ACCOMPANYING DOCUMENTS.**

22           (a) Except as provided in Section 705, ~~It~~ in a proceeding under this [Act], a [petitioner]  
23 seeking to establish a support order, to determine parentage, or to register and modify a support



1 order of a tribunal of another State or foreign country must file a [petition]. Unless otherwise  
2 ordered ~~under~~ pursuant to Section 312, the [petition] or accompanying documents must provide,  
3 so far as known, the name, residential address, and social security numbers of the obligor and the  
4 obligee or the parent and alleged parent, and the name, sex, residential address, social security  
5 number, and date of birth of each child for whose benefit support is sought or whose parentage is  
6 to be determined. Unless filed at the time of registration, the [petition] must be accompanied by a  
7 copy of any support order known to have been issued by another tribunal. The [petition] may  
8 include any other information that may assist in locating or identifying the [respondent].  
9 (b) The [petition] must specify the relief sought. The [petition] and accompanying documents  
10 must conform substantially with the requirements imposed by the forms mandated by federal law  
11 for use in cases filed by a support enforcement agency.

#### 12 **REPORTER'S NOTE**

13  
14 See Convention art. 25. Documents

15  
16 The process of nondisclosure established in § 312 contemplates nondisclosure on the  
17 basis of an affidavit; disclosure may be ordered by a tribunal only after the fact when the other  
18 party requests disclosure and the tribunal approves the request.  
19

#### 20 21 **SECTION 312. NONDISCLOSURE OF INFORMATION ~~IN EXCEPTIONAL~~** 22 **~~CIRCUMSTANCES.~~**

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

(b) Personal information gathered or transmitted under this [Act] may only be used for the purposes for which it was gathered or transmitted.

## REPORTER'S NOTE

See Convention arts. 38, 39, & 40

Despite the views of the Tucson advisors, I believe (b) should be retained; otherwise the provision it must be stated in Article 7 as an orphan section.

### **SECTION 313. COSTS AND FEES.**

(a) In a proceeding under this [Act], ~~The~~ the [petitioner] may not be required to:

(1) pay a filing fee or other costs; or

(2) provide security, bond, or deposit to guarantee the payment of costs and

expenses.

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

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

1 **REPORTER'S NOTE**

2  
3 See Convention arts. 14 & 43  
4

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

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

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

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

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

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

19 (a) The physical presence of a nonresident party who is an individual is not required for  
20 the establishment, enforcement, or modification of a support order or the rendition of a judgment  
21 determining parentage.

22 (b) An affidavit, a document substantially complying with federally mandated forms, or a  
23 document incorporated by reference in any of them, which would not be excluded under the  
24 hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a  
25 party or witness residing ~~in another~~ outside this State.

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

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

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

11 (f) In a proceeding under this [Act], a tribunal of this State shall permit a party or witness  
12 residing outside this State to be deposed or to testify under penalty of perjury by telephone,  
13 audiovisual means, or other electronic means at a designated tribunal or other location ~~in that~~  
14 ~~State~~. A tribunal of this State shall cooperate with other tribunals ~~of other States~~ in designating  
15 an appropriate location for the deposition or testimony.

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

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

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

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

3 **REPORTER'S NOTE**  
4

5 See Convention art. 29  
6

7 **SECTION 317. COMMUNICATIONS BETWEEN TRIBUNALS.** A tribunal of this  
8 State may communicate with a tribunal ~~of another~~ outside this State ~~or foreign country or~~  
9 ~~political subdivision~~ in a record, or by telephone or other means, to obtain information  
10 concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the  
11 status of a proceeding in ~~the other State or foreign country..~~ A tribunal of this State may furnish  
12 similar information by similar means to a tribunal ~~of another~~ outside this State ~~or foreign country~~  
13 ~~or political subdivision.~~

14 **REPORTER'S NOTE**  
15

16 For §§ 316-318, do we want "outside this State" or "another state or foreign country."  
17 My notes say the former, my sense of consistency says the latter.  
18

19 **SECTION 318. ASSISTANCE WITH DISCOVERY.** A tribunal of this State may:  
20 (1) request a tribunal ~~of~~ outside this State to assist in obtaining discovery; and  
21 (2) upon request, compel a person over whom it has jurisdiction to respond to a discovery  
22 order issued by a tribunal of another State or foreign country.

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

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

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

4 (1) direct that the support payment be made to the support enforcement agency in  
5 the State or foreign country in which the obligee is receiving services; and

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

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

12 **REPORTER'S NOTE**

13  
14 (Lilly) This section is designed to speed up payments to obligee's State.  
15



1 **REPORTER'S NOTE**

2 This is a good place to move Section 701 of UIFSA (2001).

3  
4  
5 **SECTION 402. PROCEEDING TO DETERMINE PARENTAGE.** A tribunal  
6 of this State authorized to determine parentage of a child may serve as a responding tribunal in a  
7 proceeding to determine parentage brought under this [Act] or a law or procedure substantially  
8 similar to this [Act].

9 **SECTION 403. ESTABLISHMENT OF SUPPORT ORDER INVOLVING PARTY**  
10 **OR CHILD RESIDING IN FOREIGN COUNTRY.** A tribunal of this State with personal  
11 jurisdiction over the individual parties may establish a support order involving an obligee,  
12 obligor, or child residing in a foreign country or nonparticipating country if:

13 (1) there is no existing order, or  
14 (2) the existing foreign support order cannot be recognized or enforced under the  
15 provisions of this [Act].

16 **REPORTER'S NOTE**

17 See Convention art. 37

18  
19  
20 A fundamental principle of U.S. jurisprudence is that our courts are open to all litigants  
21 with a valid cause of action. Thus, although stating the obvious this may go unsaid, clearly  
22 articulating the principle can do no harm. Further, ever since the first iteration of UIFSA in 1992,  
23 the Uniform Law Commission, nee NCCUSL, has jealously guarded the prerogative of a litigant  
24 to employ "private counsel" to enforce support orders, see UIFSA § 309. That principle  
25 undoubtedly will continue to be a focal point of the ULC.  
26



1 **ARTICLE 5**

2 **ENFORCING ORDER WITHOUT REGISTRATION**

3  
4 **REPORTER'S NOTE**

5  
6 The UIFSA system of direct collection of income withholding from employers  
7 across State lines is not applicable to requests across international borders. Therefore, only  
8 Section 507 may be relevant for consideration in conjunction with the Convention.  
9

10 **SECTION 501. EMPLOYER'S RECEIPT OF INCOME-WITHHOLDING**

11 **ORDER OF ANOTHER STATE.** An income-withholding order issued ~~in~~ by a tribunal of  
12 another State may be sent by or on behalf of the obligee, or by the support enforcement agency,  
13 to the person defined as the obligor's employer under [the income-withholding law of this State]  
14 without first filing a [petition] or comparable pleading or registering the order with a tribunal of  
15 this State.

16 **SECTION 502. EMPLOYER'S COMPLIANCE WITH INCOME-**  
17 **WITHHOLDING ORDER OF ANOTHER STATE.**

18 (a) Upon receipt of an income-withholding order, the obligor's employer shall  
19 immediately provide a copy of the order to the obligor.

20 (b) The employer shall treat an income-withholding order issued ~~in~~ by a tribunal of  
21 another State which appears regular on its face as if it had been issued by a tribunal of this State.

22 (c) Except as otherwise provided in subsection (d) and Section 503, the employer shall  
23 withhold and distribute the funds as directed in the withholding order by complying with terms  
24 of the order which specify:

25 (1) the duration and amount of periodic payments of current child-support, stated  
26 as a sum certain;

1 (2) the person designated to receive payments and the address to which the  
2 payments are to be forwarded;

3 (3) medical support, whether in the form of periodic cash payment, stated as a  
4 sum certain, or ordering the obligor to provide health insurance coverage for the child under a  
5 policy available through the obligor's employment;

6 (4) the amount of periodic payments of fees and costs for a support enforcement  
7 agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

8 (5) the amount of periodic payments of arrearages and interest on arrearages,  
9 stated as sums certain.

10 (d) An employer shall comply with the law of the State of the obligor's principal place of  
11 employment for withholding from income with respect to:

12 (1) the employer's fee for processing an income-withholding order;

13 (2) the maximum amount permitted to be withheld from the obligor's income; and

14 (3) the times within which the employer must implement the withholding order  
15 and forward the child-support payment.

16 **SECTION 503. EMPLOYER'S COMPLIANCE WITH TWO OR MORE**  
17 **INCOME-WITHHOLDING ORDERS.** If an obligor's employer receives two or more  
18 income-withholding orders by State tribunals with respect to the earnings of the same obligor,  
19 the employer satisfies the terms of the orders if the employer complies with the law of the State  
20 of the obligor's principal place of employment to establish the priorities for withholding and  
21 allocating income withheld for two or more child-support obligees.

22 **SECTION 504. IMMUNITY FROM CIVIL LIABILITY.** An employer who  
23 complies with an income-withholding order issued ~~in~~ by a tribunal of another State in accordance

1 with this article is not subject to civil liability to an individual or agency with regard to the  
2 employer's withholding of child-support from the obligor's income.

3 **SECTION 505. PENALTIES FOR NONCOMPLIANCE.** An employer who  
4 willfully fails to comply with an income-withholding order issued by a tribunal of another State  
5 and received for enforcement is subject to the same penalties that may be imposed for  
6 noncompliance with an order issued by a tribunal of this State.

7 **SECTION 506. CONTEST BY OBLIGOR.**

8 (a) An obligor may contest the validity or enforcement of an income-withholding order  
9 issued ~~in~~ by a tribunal of another State and received directly by an employer in this State by  
10 registering the order in a tribunal of this State and filing a contest to that order as provided in  
11 Article 6, or otherwise contesting the order in the same manner as if the order had been issued by  
12 a tribunal of this State.

13 (b) The obligor shall give notice of the contest to:

14 (1) a support enforcement agency providing services to the obligee;

15 (2) each employer that has directly received an income-withholding order relating  
16 to the obligor; and

17 (3) the person designated to receive payments in the income-withholding order or,  
18 if no person is designated, to the obligee.

19 **SECTION 507. ADMINISTRATIVE ENFORCEMENT OF ORDERS.**

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

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

7 **REPORTER'S NOTE**  
8

9 If a support enforcement agency receives a request for services from an individual  
10 accompanied by a copy of a foreign support order, the agency should be able to commence  
11 administrative enforcement if available under applicable state law. In a case of a foreign order,  
12 however, there will need to be a standard administrative process for determining currency  
13 equivalence.  
14

1 **ARTICLE 6**

2 **REGISTRATION, ENFORCEMENT, AND MODIFICATION OF SUPPORT ORDER**

3  
4 **PART 1**

5 **REGISTRATION AND ENFORCEMENT OF SUPPORT ORDER.**

6 **REPORTER'S NOTE**

7  
8 With selective editing, the registration and enforcement provisions in Article 6, Part  
9 1, should conform to the provisions of the proposed Convention. Directives in Sections 601, 609,  
10 and Article 7 may suffice to restrict international orders to the proper channels.  
11

12 **SECTION 601. REGISTRATION OF ORDER FOR ENFORCEMENT.**

13 (a) A support order or income-withholding order issued by a tribunal of another State  
14 may be registered in this State for enforcement.

15 (b) Except as otherwise provided in [Article 7], a party or support enforcement agency  
16 seeking to enforce or modify a child-support order issued by a foreign tribunal shall register that  
17 order in this State as provided in this [Article].

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

19 (a) Except as otherwise provided in Section 705, A a support order or income-  
20 withholding order issued by a tribunal of another State or foreign country may be registered in  
21 this State by sending the following records and information to the [appropriate tribunal] in this  
22 State:

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

24 (2) two copies, including one certified copy, of the order to be registered,  
25 including any modification of the order;

26 (3) a sworn statement by the person requesting registration or a certified statement

1 by the custodian of the records showing the amount of any arrearage;

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

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

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

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

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

10 (b) On receipt of a request for registration, the registering tribunal shall cause the order to  
11 be filed as ~~a foreign judgment~~ an order of a tribunal of another State or foreign country, together  
12 with one copy of the documents and information, regardless of their form.

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

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

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

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

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

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

1 affected by the determination.

2 **REPORTER'S NOTE**

3  
4 Apparently the list of documents required in Subsection (a) conflicts with Convention  
5 articles 11(3) and 25. Given that millions of domestic cases have been processed under the  
6 procedure specified in this section, and approximately less than one-tenth of one percent  
7 (0.001%) have involved a foreign order (a perfect illustration of the tail wagging the dog). My  
8 recommendation is to add a special rule for documentation of foreign orders in Article 7, infra.  
9

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

11 (a) A support order or income-withholding order issued ~~in~~ by a tribunal of another State  
12 or foreign country is registered when the order is filed in the registering tribunal of this State.

13 (b) A registered order issued ~~in~~ by a tribunal of another State or foreign country is  
14 enforceable in the same manner and is subject to the same procedures as an order issued by a  
15 tribunal of this State.

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

19 **SECTION 604. CHOICE OF LAW.**

20 (a) Except as otherwise provided in subsection (d), the law of the issuing State or foreign  
21 country governs:

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

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

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

27 (b) In a proceeding for arrears under a registered support order, the statute of limitation of

1 this State, or of the issuing State or foreign country, whichever is longer, applies.

2 (c) A responding tribunal of this State shall apply the procedures and remedies of this  
3 State to enforce current support and collect arrears and interest due on a support order issued by  
4 a tribunal of another State or foreign country registered in this State.

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

## 10 **PART 2**

### 11 **CONTEST OF VALIDITY OR ENFORCEMENT**

#### 12 **SECTION 605. NOTICE OF REGISTRATION OF ORDER.**

13 (a) When a support order or income-withholding order issued ~~in~~ by a tribunal of another  
14 State or foreign country is registered, the registering tribunal of this State shall notify the  
15 nonregistering party. The notice must be accompanied by a copy of the registered order and the  
16 documents and relevant information accompanying the order.

17 (b) Except as otherwise provided in Section 706, A a notice must inform the nonregistering  
18 party:

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

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



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

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

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

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

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

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

12 (4) state that failure to contest the validity or enforcement of the order alleged to  
13 be the controlling order in a timely manner may result in confirmation that the order is the  
14 controlling order.

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

#### 18 **REPORTER'S NOTE**

19  
20 See Convention art. 23

21 The requirement that a notice to contest must be filed within [20] days has been retained  
22 (the brackets indicate the length of time is suggested, not fixed). On the other hand, the  
23 Convention requires a fixed 30 days, and a fixed 60 days if the respondent resides in a foreign  
24 country, see Convention art. 23. Incorporating the time frames established in the Convention was  
25 rejected by the drafting Committee in Tucson. The longer time frames will be limited in Article 7  
26 to only those cases involving the Convention.  
27



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

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

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

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

6 **REPORTER'S NOTE**

7  
8 The amendments consistent with Convention arts. 19, & 20  
9

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

14 **PART 3**

15 **REGISTRATION AND MODIFICATION OF CHILD-SUPPORT**

16 **ORDER OF ANOTHER STATE**

17 **REPORTER'S NOTE**

18  
19 In drafting UIFSA 1992 critical choices were made regarding modification of an existing  
20 child-support order when all parties and the child had left the issuing State. First, the original  
21 order was to remain in force as the controlling order until modified. Second, the issue was what  
22 to do when the parties resided in different States. The deciding factor centered on the undesirable  
23 effect of ambush jurisdiction. The drafting committee objected to the possibility that the parties  
24 would vie to strike first to obtain a home town advantage. Arguably this could discourage  
25 continued contact with the children by the obligor for fear of a lawsuit in a distant forum. Thus,  
26 modification in a forum with long-arm personal jurisdiction over both parties was to be avoided.  
27 Indeed, repeated modification suits were to be avoided. Ultimately, an alternative was produced,  
28 which has come to be known as "the movant must play an away game," as exemplified in  
29 Section 611.  
30

31 The requirements of Section 611, and the prohibition against assertion of long-arm  
32 jurisdiction in the international context makes much less sense. Only because the United States is  
33 wedded to personal jurisdiction over the individual parties, rather than the child-based

1 jurisdiction found virtually everywhere else, does this issue arise. Thus, a foreign country  
2 typically regards a support order to be one of the country. In a few recognized instances orders  
3 are made by a political subdivision, e.g. Canadian provinces, again based on the obligee's  
4 residence. Consideration was given to labeling a support order of a State as an order of the  
5 United States. Conforming modification to the general principles of state-control of the subject  
6 matter through UIFSA, with an exception for appropriate assertion of long-arm jurisdiction,  
7 seems the more conservative approach. Of course, the movant may also choose to seek  
8 modification in the other party's place of residence.

9  
10 Some of the General Provisions in Convention ch. VIII do not direct action to be taken by  
11 a tribunal or agency of a U.S. State, or direct action that is already covered by the law of the  
12 State in UIFSA or otherwise. As a preliminary judgment, those that seem relevant to UIFSA  
13 have been included in UIFSA arts. 1-6. Obviously, further study will be necessary to confirm  
14 these preliminary conclusions. Please note any disagreement with the conclusions.  
15

16 **SECTION 609. PROCEDURE TO REGISTER CHILD-SUPPORT ORDER OF**  
17 **ANOTHER STATE FOR MODIFICATION.** A party or support enforcement agency seeking  
18 to modify, or to modify and enforce, a child-support order issued ~~in~~ by a tribunal of another State  
19 shall register that order in this State in the same manner provided in ~~Part 4~~ Sections 601 through  
20 608 if the order has not been registered. A [petition] for modification may be filed at the same  
21 time as a request for registration, or later. The pleading must specify the grounds for  
22 modification.

23 **SECTION 610. EFFECT OF REGISTRATION OF CHILD-SUPPORT ORDER**  
24 **OF ANOTHER STATE FOR MODIFICATION.** A tribunal of this State may enforce a  
25 child-support order issued by a tribunal of another State registered for purposes of modification,  
26 in the same manner as if the order had been issued by a tribunal of this State, but the registered  
27 order may be modified only if the requirements of Section 611 - 614 or 615 have been met.

28 **SECTION 611. MODIFICATION OF CHILD-SUPPORT ORDER OF ANOTHER**  
29 **STATE.**

30 (a) If Section 613 does not apply, except upon [petition] a tribunal of this State may

1 modify a child-support order issued ~~in~~ by a tribunal of another State which is registered in this  
2 State if, after notice and hearing, the tribunal finds that:

3 (1) the following requirements are met:

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

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

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

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

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

17 (c) A tribunal of this State may not modify any aspect of a child-support order that may  
18 not be modified under the law of the issuing State, including the duration of the obligation of  
19 support. If two or more tribunals have issued child-support orders for the same obligor and same  
20 child, the order that controls and must be so recognized under Section 207 establishes the aspects  
21 of the support order which are nonmodifiable.

22 (d) In a proceeding to modify a child-support order, the law of the State that is  
23 determined to have issued the initial controlling order governs the duration of the obligation of

1 support. The obligor's fulfillment of the duty of support established by that order precludes  
2 imposition of a further obligation of support by a tribunal of this State.

3 (e) On the issuance of an order by a tribunal of this State modifying a child-support order  
4 issued ~~in~~ by a tribunal of another State, the tribunal of this State becomes the tribunal having  
5 continuing, exclusive jurisdiction.

6 **SECTION 612. RECOGNITION OF ORDER MODIFIED IN ANOTHER STATE.**

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

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

12 (2) may provide appropriate relief for violations of its order which occurred before the  
13 effective date of the modification; and

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

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

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

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

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

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

(a) ~~If a foreign 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 consent to modification of a child-support order otherwise required of the individual pursuant to Section 611 has been given or whether the individual seeking modification is a resident of this State or of the foreign country or political subdivision. Except as otherwise provided in Section 712, a tribunal of this State may not modify a foreign child-support order based on personal jurisdiction over the individual parties unless the foreign tribunal lacks or refuses to exercise jurisdiction to modify its order pursuant to its laws.~~

(b) An order issued by a tribunal of this State modifying a foreign child-support order pursuant to this section is the controlling order.

## REPORTER'S NOTE

This revision of UIFSA § 615 is consistent with Convention art. 15 2. c), which limits proceedings initiated by the obligor when the obligee remains in the issuing state. The

1 contemplation here is that the obligee will seek modification, but will be unable to obtain it  
2 because the obligor will not appear to defend or the obligee must appear in a distant forum.  
3

4 **SECTION 616. PROCEDURE TO REGISTER CHILD-SUPPORT ORDER OF A**  
5 **FOREIGN COUNTRY FOR MODIFICATION.** A party or support enforcement agency  
6 seeking to modify, or to modify and enforce, a child-support order issued by a tribunal of a  
7 foreign country shall register that order in this State in the same manner provided in Sections 601  
8 through 608 if the order has not been registered. A [petition] for modification may be filed at the  
9 same time as a request for registration, or later. The pleading must specify the grounds for  
10 modification.

11 **SECTION 617. MODIFICATION OF STATE CHILD-SUPPORT ORDER**  
12 **INVOLVING INDIVIDUAL RESIDING IN FOREIGN COUNTRY.**

13 (a) Without regard to the restrictions on modification of a child-support order stated in  
14 Sections 201(b) and 611, a tribunal of this State may modify a child-support order issued by a  
15 tribunal of another State if:

16 (1) the child-support order involves an obligor, obligee, or child residing in a  
17 foreign country;

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

20 (3) this State is the home state of the child or the State in which a party resides.

21 (b) Without regard to the restrictions on modification of a child-support order stated in  
22 Section 201(b) and 611, a tribunal of this State retains jurisdiction to modify an order issued by a  
23 tribunal of this State if the requesting party resides in another State and the nonrequesting party  
24 resides in a foreign country.  
25



1 ARTICLE 7

2 DETERMINATION OF PARENTAGE

3 SUPPORT ORDER SUBJECT TO CONVENTION

4 REPORTER'S NOTE

5  
6 As originally presented to the Uniform Law Conference in UIFSA 1992, Article 7  
7 contained a wide variety of substantive and procedural sections regarding parentage actions. All  
8 those provisions except the single section above, moved to Article 4, were deleted in floor  
9 debate. The persuasive argument was that the Uniform Parentage Act (1973) provided the  
10 authoritative word on the Conference's position on the subject. In short, the attempt to amend  
11 portions of UPA (1973) failed. Of course, a decade later NCCUSL promulgated a completely  
12 revised act, the Uniform Parentage Act (2002). I have moved UIFSA § 701 to Article 4. A  
13 reasonable alternative would be to delete the section entirely. Either action will free Article 7 for  
14 statutes to deal with international support orders.

15  
16 In drafting a new iteration of UIFSA, a crucial fact must be kept in mind. If and when  
17 two-thirds of the U.S. Senate gives advice and its consent to the new Convention, and the  
18 President's signs, the Convention will be finally ratified and becomes the "law of the land."  
19 However, because the treaty is not self-executing, it will require either additional federal or State  
20 law to become fully effective. Another crucial fact is that establishment, enforcement, and  
21 modification of child-support and spousal support orders historically has been a matter for state  
22 tribunals. Although the existence of substantial federal subsidies has led to a cooperative effort  
23 between state and federal governments, the mode for establishment, enforcement, and  
24 modification remains with the judicial and administrative entities of the States.

25  
26 In any event, the language of the Convention is what it is, and is not subject to domestic  
27 amendment. The choice for the U.S. Senate is to accept all or none of the provisions of the  
28 Convention, other than those few that are subject to reservation by individual Contracting States.  
29 However, there is ample precedent for the Senate to attach significant conditions to be met  
30 before its consent is operative. For bench and bar in the States to function efficiently, a  
31 translation of HccH treaty-English into UIFSA language is not only permissible, but, in my  
32 opinion, is vital to facilitate implementation of the Convention at ground level. This conclusion  
33 was sanctioned in Chicago last year by William Duncan, Deputy Secretary General, HccH  
34 Secretariat.

35  
36 Gathering the provisions of the Convention applicable to a proceeding involving a  
37 foreign country in Article 7, if not clearly already covered in UIFSA, will eliminate the necessity  
38 to pick and choose when to insert or delete existing text throughout the Act. Although chapter 2  
39 is controlling insofar as establishing personal jurisdiction over a party when required in a case  
40 involving a foreign country, the provisions to accomplish this do not need to be amended in this  
41 chapter.

42  
43 UIFSA should not remain passive regarding the effect of a support order issued by a

1 foreign tribunal entitled to enforcement by a “tribunal of this State.” For example, although the  
2 terms “modify” and “modification” are much employed in the text of the draft Convention (17  
3 times in all), many questions about that process go unanswered in the Convention. UIFSA may  
4 fill these gaps. Moreover, many of the provisions in Convention chs. VI to IX pose questions  
5 about which of those to include in UIFSA. For example, Articles 26 and 27 have been included  
6 in rewritten form even though UIFSA already contains the principles expressed. This illustrates  
7 the persuasive influence exerted by UIFSA 2001 to influence the Hague negotiations. This effect  
8 is even clearer in Convention Articles 32 through 36.

10 This draft adopts the position that a very limited number of amendments to UIFSA are  
11 required for Convention Chapters II and III (some duplication is already present). Similarly,  
12 from Article 44 through Article 65 no UIFSA amendments are proposed. The rationale is that  
13 agreements between sovereign nations and duties of central authorities are beyond the  
14 jurisdiction of state legislatures to regulate.

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

20 **SECTION 701. [ARTICLE] APPLIES ONLY TO FOREIGN SUPPORT ORDER**  
21 **SUBJECT TO CONVENTION.**

22 (a) This [Article] applies only to support orders and proceedings subject to the  
23 Convention.

24 (b) If a provision of this [Article] is inconsistent with a provision in another [Article] of  
25 this [Act] with regard to a support order subject to the Convention, this [Article] controls.

#### 26 **REPORTER’S NOTE**

27  
28 See Convention arts. 1 and 2.  
29

30 **SECTION 702. DEFINITIONS.** In this Article:

31 (1) “Application” means a request under the Convention by an obligee or obligor made  
32 through a central authority for assistance from another central authority.

1       (2) “Central authority” means the entity designated by a country that has ratified or  
2 acceded to the United States with regard to the Convention.

3       (3) “Federal central authority” means the Office of Child Support Enforcement, United  
4 States Department of Health and Human Services.

5       (4) “Foreign support agreement” means an agreement for support in a record that is  
6 enforceable in the country of origin and which:

7               (A) has been formally drawn up or registered as an authentic instrument by a  
8 foreign tribunal; or

9               (B) has been authenticated by, or concluded, registered or filed with a foreign  
10 tribunal, and may be the subject of review and modification by a foreign tribunal; and

11               (C) as provided by the Convention, is known as a “maintenance arrangement.”

12       **SECTION 703. RELATIONSHIP OF STATE AGENCY TO FEDERAL**  
13 **CENTRAL AUTHORITY.** The [governmental entity] of this State is recognized as the agency  
14 designated by the [federal central authority] to provide the services required by the Convention.

15                               **REPORTER’S NOTE**

16                               See Convention arts. 4-17  
17  
18

19       **SECTION 704. INITIATION OF SUPPORT PROCEEDING SUBJECT TO**  
20 **CONVENTION.**

21       (a) Pursuant to the Convention, the [governmental entity] of this State shall assist:

22               (1) an individual to file an application under the Convention in a foreign country;  
23 and

24               (2) the central authority of a foreign country to file a [petition] in a tribunal of this  
25 State.

1           (b) Pursuant to the Convention, an obligee, obligor, or child residing in a foreign  
2 country may file a [petition] directly with a tribunal of this State. An individual filing directly  
3 will not receive assistance of the [governmental entity].

4           **SECTION 705. REGISTRATION OF SUPPORT ORDER SUBJECT TO**  
5 **CONVENTION.**

6           (a) Except as otherwise provided in this [Article], an individual party or [governmental  
7 entity] seeking recognition of a foreign support order subject to the Convention shall register the  
8 order in this State as provided in Sections 601-604.

9           (b) Notwithstanding Section 311, pursuant to the Convention a request for registration of  
10 a foreign support order subject to the Convention shall be accompanied by:

11                   (1) a complete text of the support order;

12                   (2) a document stating that the support order was issued by an appropriate tribunal  
13 and is enforceable in the issuing country;

14                   (3) if the respondent did not appear and was not represented in the proceedings in  
15 the issuing country, a document or documents attesting, as appropriate, either that the respondent  
16 had proper notice of the proceedings and an opportunity to be heard, or that the respondent had  
17 proper notice of the support order and the opportunity to challenge or appeal it on fact and law;

18                   (4) where necessary, a document showing the amount of any arrears, and the date  
19 such amount was calculated;

20                   (5) where necessary, the automatic adjustment by indexation, if any, and the  
21 information necessary to make the appropriate calculations;

22                   (6) where necessary, documentation showing the extent to which the applicant  
23 received free legal assistance in the issuing country.

1 (c) A request for registration may request partial enforcement of a foreign support order.

2 (d) A tribunal may refuse to register a foreign support order only if the order is manifestly  
3 incompatible with public policy.

4 (e) The tribunal shall promptly notify parties of the registration or the refusal of  
5 registration.

6 **REPORTER'S NOTE**

7 See Convention art. 25, 32

8  
9 **SECTION 706. CONTEST OF VALIDITY OF FOREIGN SUPPORT ORDER**  
10 **SUBJECT TO CONVENTION.**

11 (a) Except as otherwise provided in this Article, a contest of the validity of a registered  
12 order is subject to Sections 605-608.

13 (b) A party contesting the recognition and enforcement of a foreign support order subject  
14 to the Convention must [challenge or appeal] within 30 days of notification of the registration  
15 unless the contesting party is not resident in the United States, in which case the [challenge or  
16 appeal] must be within 60 days of notification.

17 (c) A [challenge or appeal] may be based only on:

18 (1) the lack of a basis for enforcement under Section 707;

19 (2) the grounds for refusing enforcement under Section 708;

20 (3) the authenticity or integrity of any document transmitted in accordance with  
21 Section 706; or

22 (4) the payment in part or whole of the alleged arrears.

23 (d) In a [challenge or appeal] to the validity of a registered order, a tribunal of this State:



1 in this State shall accept the order as establishing the eligibility of the child to seek an order for  
2 support.

3 (e) Except as otherwise provided in this [Article] a tribunal of this State which has  
4 recognized a registered support order subject to the Convention shall apply the provisions of  
5 [Articles 1-6] to enforce the order.

#### 6 **REPORTER'S NOTE**

7  
8 See Convention art. 20, 21, 27, 28  
9

10 Because in the rest of the world the residence of the obligee and child is determinative of  
11 jurisdiction to establish and modify a support order, the issue of personal jurisdiction over the  
12 obligor is basically moot. This distinction forms the basis of Convention art. 20, Bases for  
13 Recognition and Enforcement. That the United States will take a reservation to Article 20  
14 regarding "creditor-based" jurisdiction was understood by all parties to the negotiations. This  
15 provision takes that understanding an identical step forward with regard to a modification of the  
16 original support order.  
17

#### 18 **SECTION 708. REFUSAL OF RECOGNITION AND ENFORCEMENT OF** 19 **FOREIGN SUPPORT ORDER SUBJECT TO CONVENTION.**

20 (a) A tribunal of this State may refuse recognition and enforcement of a foreign child-  
21 support order subject to the Convention if:

22 (1) recognition and enforcement of the order is manifestly incompatible with  
23 public policy;

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

25 (3) a proceeding between the same parties and having the same purpose is  
26 pending before a tribunal of this State and that proceeding was the first to be instituted;

27 (4) the order is incompatible with a more recent support order issued between the  
28 same parties and having the same purpose, provided that the more recent support order is entitled

1 to recognition and enforcement in this State;

2 (5) in a case where the respondent neither appeared nor was represented in the  
3 proceeding in the issuing foreign country:

4 (A) when the law of the issuing foreign country provides for notice of  
5 proceedings, the respondent did not have proper notice of the proceedings and an opportunity to  
6 be heard; or

7 (B) when the law of the issuing foreign country does not provide for  
8 notice of the proceedings, the respondent did not have proper notice of the order and the  
9 opportunity to challenge it on fact and law; or

10 (6) the order was made by a tribunal other than the tribunal that issued the  
11 controlling order in accordance with Section 711.

12 **REPORTER'S NOTE**

13 See Convention arts. 20, 22

14  
15 **SECTION 709. FOREIGN SUPPORT AGREEMENT SUBJECT TO**  
16 **CONVENTION.**

17 (a) A tribunal of this State shall recognize and enforce a valid foreign support agreement  
18 registered in this State.

19 (b) An application for recognition and enforcement of a foreign support agreement shall  
20 be accompanied by:

21 (1) a complete text of the foreign support agreement; and

22 (2) a document stating that the foreign support agreement is enforceable as a  
23 decision in the issuing country.



1        (c) A tribunal of this State may refuse recognition and enforcement of a foreign support  
2 agreement if:

3                (1) recognition and enforcement of the agreement is manifestly incompatible with  
4 the public policy of this State;

5                (2) the agreement was obtained by fraud or falsification;

6                (3) the agreement is incompatible with a support order rendered between the same  
7 parties and having the same purpose, either in this State, another State, or a foreign country,  
8 provided that the latter support order is entitled to enforcement in this State;

9                (4) there is another other reason that affects the integrity of the agreement .

10        (d) A proceeding for recognition and enforcement of a foreign support agreement shall be  
11 suspended if a challenge to the agreement is pending before a tribunal in another State or foreign  
12 country.

### 13                                **REPORTER'S NOTE**

14        See Convention arts. 3 & 30

### 16                                **SECTION 710. CONFIRMATION OF PROVISIONAL FOREIGN SUPPORT** 17 **ORDER SUBJECT TO CONVENTION.**

18        (a) A tribunal of this State having jurisdiction over the obligor may issue a support order  
19 to confirm a provisional foreign support order, provided the respondent had proper notice of the  
20 proceedings in this State and an opportunity to oppose the confirmation of the provisional order.

21        (b) The confirming order by the tribunal of this Sate is enforceable and modifiable in this  
22 State.

(c) If a registered order is produced by the combined effect of a provisional order issued by a tribunal in one foreign country and a confirming order issued by a tribunal in another State or foreign country, a tribunal of this State shall enforce the order if it is enforceable in the confirming State or country.

## REPORTER'S NOTE

See Convention arts. 20, 22, and 31

Although this procedure may seem bewildering to those encountering it for the first time, it has long been a part of the relationship between U.S. authorities and Commonwealth countries, especially the Canadian provinces. In fact, UIFSA § 304(b) was designed to facilitate this process, but the Convention explains the procedure more clearly.

## **SECTION 711. DETERMINATION OF CONTROLLING CHILD-SUPPORT**

**ORDER SUBJECT TO CONVENTION.** If a proceeding is brought under this [Act], and two or more child-support orders have been issued by foreign tribunals with regard to the same obligor and same child, a tribunal of this State shall apply the following rules and by order shall determine which order controls:

(1) if only one of the tribunals had personal jurisdiction over the individual parties under  
this [Act], the order of that tribunal controls and must be so recognized.

(2) if more than one of the tribunals had personal jurisdiction over the obligor and obligee

under this [Act], the order most recently issued controls.

(3) if none of the tribunals had personal jurisdiction over the obligor and obligee, under this [Act], the tribunal of this State with such jurisdiction shall issue a child-support order, which controls.

## REPORTER'S NOTE

Not derived from the Convention.

1  
2       **SECTION 712. MODIFICATION OF FOREIGN CHILD-SUPPORT ORDER**

3       **SUBJECT TO CONVENTION.**

4       (a) Subject to the limitation of subsection (b), a tribunal of this State may modify, or  
5       modify and enforce the foreign support order which has been registered in this State under  
6       Section 705.

7       (b) A tribunal of this State may not modify the foreign support order if the obligee  
8       remains a resident of the foreign country where the support order was issued. This subsection  
9       does not apply if:

10       (1) the obligee submits to the jurisdiction of a tribunal of this State, either  
11       expressly or by defending on the merits of the case without objecting to the jurisdiction at the  
12       first available opportunity;

13       (2) the foreign tribunal lacked or refused to exercise its jurisdiction to modify its  
14       support order or issue a new support order, as provided in Section 615; or

15       (3) the foreign support order cannot be recognized in this State.

16                               **REPORTER'S NOTE**

17  
18       See Convention art. 18.

19  
20       The term “modify” and its variants is used 17 times in the text of the Convention, but  
21       many questions remain unanswered. UIFSA may legitimately fill these gaps.  
22

23       **SECTION 713. ENFORCEMENT OF MODIFIED FOREIGN CHILD-SUPPORT**  
24       **ORDER SUBJECT TO CONVENTION.**

25       (a) A tribunal of this State shall apply the provisions of this [Act] to recognize and  
26       enforce a modified foreign child-support order.

1        (b) If the tribunal of this State cannot register and enforce a modified foreign child-  
2 support order because under similar facts a tribunal of this State would not have had jurisdiction  
3 under Section 201, the tribunal shall take all appropriate measures to establish a support order if  
4 it may assert personal jurisdiction over the individual parties.

5                                **Reporter's Note**

6                Not derived from the Convention.

1 **ARTICLE 8**

2 **INTERSTATE RENDITION**

3 **SECTION 801. GROUNDS FOR RENDITION.**

4  
5 (a) For purposes of this article, “governor” includes an individual performing the  
6 functions of governor or the executive authority of a State covered by this [Act].

7 (b) The governor of this State may:

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

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

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

17 **SECTION 802. CONDITIONS OF RENDITION.**

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

23 (b) If, under this [Act] or a law substantially similar to this [Act], the governor of another  
24 State makes a demand that the governor of this State surrender an individual charged criminally

1 in that State with having failed to provide for the support of a child or other individual to whom a  
2 duty of support is owed, the governor may require a prosecutor to investigate the demand and  
3 report whether a proceeding for support has been initiated or would be effective. If it appears that  
4 a proceeding would be effective but has not been initiated, the governor may delay honoring the  
5 demand for a reasonable time to permit the initiation of a proceeding.

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

10

1 **ARTICLE 9**

2 **MISCELLANEOUS PROVISIONS**

3  
4 **SECTION 901. UNIFORMITY OF APPLICATION AND CONSTRUCTION.** In  
5 applying and construing this Uniform Act consideration must be given to the need to promote  
6 uniformity of the law with respect to its subject matter among States that enact it.

7 **SECTION 902. SEVERABILITY CLAUSE.** If any provision of this [Act] or its  
8 application to any person or circumstance is held invalid, the invalidity does not affect other  
9 provisions or applications of this [Act] which can be given effect without the invalid provision or  
10 application, and to this end the provisions of this [Act] are severable.

11 **SECTION 903. EFFECTIVE DATE.** This [Act] takes effect .....