

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 September 2007 Drafting Committee Meeting

*AMENDMENTS SHOWN IN STRIKE AND SCORE*

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*The ideas and conclusions set forth in this draft, including the proposed statutory language and any comments or reporter's notes, have not been passed upon by the National Conference of Commissioners on Uniform State Laws or the Drafting Committee. They do not necessarily reflect the views of the Conference and its Commissioners and the Drafting Committee and its Members and Reporter. Proposed statutory language may not be used to ascertain the intent or meaning of any promulgated final statutory proposal.*

September 4, 2007

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

Regular Roman typeface = existing language, UIFSA 2001

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

**Bold face underscored—suggested new language**

**~~[Bold deletion—suggested deletions]~~**

## II. BASIC PRINCIPLES OF UIFSA

### A. In General

1. RECIPROCITY NOT REQUIRED BETWEEN STATES. Reciprocal laws, the hallmark of RURESA and URESA, are not required under UIFSA. Although reciprocity became irrelevant in this country with the universal adoption of UIFSA, reciprocity continues to be an issue with regard to the recognition and enforcement of support orders of a **foreign country or political subdivision**, Sections 102(21), 104, 308. Respect and tolerance for the laws of **other countries** ~~[States and nations]~~ in order to facilitate child support enforcement is another prime goal of the Act. The 2001 amendments continue this perspective by explicitly recognizing that tribunals may extend the principle of **comity** to **foreign maintenance** ~~[support]~~ orders, Sections 102, 104 and 210.

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

***Reporter's note.** The terms "another state" or "other State" appear scores of times in the statutory text and commentary throughout the Act. Sometimes the context clearly indicates that only a U. S. State is intended, sometimes it intends application to all orders whatever the source, and sometime the intent is ambiguous. I believe it is appropriate to eliminate the fiction that a foreign reciprocating jurisdiction is a "State." Individual drafting decisions may be required to identify those provisions in the Act which intend application only to a State, and those which intend application to a State and foreign reciprocating jurisdiction. I have identified every "another State" in bold typeface, but have not attempted to resolve all instances of intended application. Some of the time I have guessed on the likely intention.*

*On the other hand, such decision making may be avoided by altering all relevant statutes affecting reception of an international maintenance order by a U. S. State into a stand-alone article, see proposed Article 7, infra.*

### **C. Enforcing a Support Order**

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

2. REGISTRATION. Enforcement of a support order of another State or **of a foreign country or political subdivision** begins with the registration of the existing support order in a tribunal of the responding State, Sections 601-604. However, the registered order continues to be the order of the issuing State, Sections 605-608. The role of the responding State is limited to enforcing that order except in the very limited circumstances under which modification is permitted, *infra*.

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

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

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

State in which the respondent resides. A colloquial short-hand summary of the principle is that ordinarily the movant for modification of a child support order “must play an away game.”

A 2001 amendment adds that even if the parties and child have moved from the issuing State they may agree that the tribunal that issued the controlling order will continue to exercise its continuing, exclusive jurisdiction, Section 205. This recognizes the fact that it may be preferable for the parties to return to a tribunal familiar with the issues rather than to be required to fully inform another tribunal of all the facts and issues that have been previously litigated. This exception may be particularly appropriate if both child-support and spousal-support are involved in the same case; under this Act, jurisdiction to modify the spousal support order is exclusively reserved to the issuing tribunal, regardless of where the parties reside.

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



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1 (ii) has established a reciprocal arrangement for child support with this State  
2 regarding recognition and enforcement of orders as provided in Section 308;  
3 [(iii) has enacted a law or established procedures for the issuance and  
4 enforcement of support orders which are substantially similar to the procedures under this  
5 [Act];]  
6 (iv) is entitled to recognition of its support orders on the basis of comity; or  
7 (v) is a signatory to a multilateral international treaty for enforcement of  
8 support orders which the United States has ratified.  
9

10 ***Reporter’s note.** The proposed addition of these stand-alone definitions of two iterations of*  
11 *“foreign jurisdiction” are to be read in conjunction with the deletion in definition 21 of the*  
12 *provision that under certain circumstances a foreign country or political subdivision becomes a*  
13 *“State.” Defining a foreign country as a “State” may be traced back to 1968, where this*  
14 *approach first appeared in the Revised Uniform Reciprocal Enforcement of Support Act*  
15 *(RURESA). In retrospect this probably was a step too far. It seems clear that the goal was to*  
16 *enforce an international support order in the same manner as accorded to support orders from a*  
17 *sister state.*

18  
19 *At that time, or indeed at any time since, there has not been any suggestion that orders of*  
20 *a foreign country are entitled to application of the Full Faith and Credit Clause. To do so would*  
21 *require constitutional analysis where only statutory issues are involved. Moreover, asserting that*  
22 *a foreign order be treated “equally” to a sister state order could well result in a manifestly*  
23 *unfair decision. For example, reading Sections 611 and 615 strictly, modification of a foreign*  
24 *child support should be refused under Section 611 if Section 615 is inapplicable, such as when*  
25 *the obligee-petitioner continues to reside in the issuing foreign country, which does modify its*  
26 *orders. Such application of Section 611 in the State where the obligor resides would frustrate*  
27 *application of local guidelines that recognize a greatly increased obligation and ability to pay.*  
28

29 *The amended definition in Subsection (21) is designed to clarify and implement the*  
30 *purpose of the Act, i.e., enforce an international order under state law. If the new convention is*  
31 *ratified by the Senate, the federal preemption of the issue via the treaty clause will be sufficient*  
32 *to accomplish that goal, U. S. Const. Art. VI., cl. 2. But, additional state statutory enforcement*  
33 *should be added to make the terms of the Hague Convention more accessible to bench and bar.*  
34 *Further, UIFSA can supply answers to questions the new convention does not ask.*  
35

36 *An almost equally intractable problem is presented by the fact that the term “foreign*  
37 *order” often means an order from whatever source, and more often relates to an order of a sister*  
38 *State. Ultimately it will be best to avoid the term “foreign order,” and refer to “an order of a*

1 *foreign jurisdiction. ” Although somewhat awkward, that is unambiguous.*

2  
3 (12) “Obligee” means:

4 (A) an individual to whom a duty of support is or is alleged to be owed or in  
5 whose favor a support order has been issued or a judgment determining parentage has been  
6 rendered;

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

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

12 **(D) an individual or entity denominated as a “creditor” in international**  
13 **maintenance orders.**

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

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

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

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

18 **(D) an individual denominated as a “debtor” in international maintenance**  
19 **orders.**

20 \* \* \*

21 (16) “Register” means to [record; file] a support order or judgment determining parentage  
22 in the [appropriate tribunal ~~location~~] for the recording or filing of **foreign judgments or**  
23 **support orders generally or foreign support orders specifically**].

24  
25 ***Reporter’s note.** Just as the term “State” has been rendered ambiguous in UIFSA, throughout*

1 *the Act the terms “foreign order” or “foreign judgment” are used ambiguously. Sometimes the*  
2 *sense is out-of-state, rather than out of country, and sometimes the term may be read to include*  
3 *maintenance orders from a foreign country or political subdivision.*

4  
5 (21) “State” means a State of the United States, the District of Columbia, Puerto Rico, the  
6 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of  
7 the United States. The term includes ~~[(A)]~~ an Indian tribe.

8 ~~(B) a foreign jurisdiction that:~~

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

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

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

15 ***Reporter’s note. See note to definitions (3-A) and (3-B), supra.***

16  
17 (23) “Support order” means

18 **(A)** a judgment, decree, order, or directive, whether temporary, final, or subject to  
19 modification, issued by a tribunal for the benefit of a child, a spouse, or a former spouse, which  
20 provides for monetary support, health care, arrearages, or reimbursement, and may include  
21 related costs and fees, interest, income withholding, attorney’s fees, and other relief; **[or]**

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

24 **Comment**

25 Many crucial definitions continue to be left to local law. For example, the definitions of  
26 "child" and "child-support order" provided by Subsections (1) and (2) refer to "the age of

majority" without further elaboration. The exact age at which a child becomes an adult for different purposes is a matter for the law of each State, as is the age at which a parent's duty to furnish child support terminates.

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

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

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

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

The 1996 amendment to Subsection (21) clarified the position that UIFSA, like RURESA before it, does not waive reciprocity in the international context. A major amendment to the text of Subsection (21) was made in 2001 to make clear that a **foreign country or political subdivision** is defined as a "State" under the Act in three situations. First, a declaration by the U. S. State Department that a **foreign jurisdiction is a reciprocating country or political subdivision** is controlling for all states.<sup>1</sup> Second, in the absence of such a declaration, each of

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<sup>1</sup> As of August 1, 2007, the following foreign jurisdictions have been recognized as reciprocating **countries** or political subdivisions by the United States in accordance with 42 USCA § 659a (PRWORA, *see* Appendix A, *infra*).

1 the several states can make an arrangement with a **foreign country or political subdivision** for  
2 reciprocal enforcement of child support. Finally, a finding may be made that a **foreign**  
3 **jurisdiction** has a law or procedure substantially similar to UIFSA.<sup>2</sup> That is, a tribunal may  
4 consider whether the **foreign jurisdiction** also has laws and procedures that allow for a U. S.  
5 order to be recognized in that **foreign jurisdiction** independent of a formal reciprocity  
6 agreement. The inclusion of **foreign political subdivisions** is necessary because in some  
7 **countries** the central government will not or cannot bind the **subdivisions**. **For example,**  
8 **reciprocal arrangements with Canada are made on the province level and not with the**  
9 **Canadian federal government.**

11 ***Reporter's note.** The comment regarding Definition (21) will be revised in accordance with the*  
12 *decisions of the drafting committee.*

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

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

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

#### 20 **Comment**

21  
22 The existence of procedures for interstate establishment, enforcement, or modification of  
23 support or a determination of parentage in UIFSA does not preclude the application of the  
24 general law of the forum. Even if the parents live in different states, for example, a petitioner  
25 may decide to file an original proceeding for child support (and most likely for other relief as  
26 well) directly in the State of residence of the respondent and proceed under that forum's  
27 generally applicable support law. In so doing, the petitioner thereby submits to the personal  
28 jurisdiction of the forum and foregoes reliance on UIFSA. Once a child support order has been  
29 issued, this option is no longer available to interstate parties. Under UIFSA, a State may not  
30 permit a party to proceed to obtain a second support order; rather, in further litigation the tribunal  
31 must apply the Act's provisions for enforcement of an existing order and limit modification to  
32 the strict standards of UIFSA.  
33

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Note that Canadian provinces are dealt with on a province-by-province basis:

Australia; Canada (provinces of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland/Labrador, Northwest Territories, Nova Scotia, Nunavut, and Ontario; Saskatchewan; and Yukon Territory); Czech Republic; El Salvador, Finland; Hungary, Ireland; Netherlands; Norway; Poland; Portugal; Slovak Republic; Switzerland;. <http://www.acf.dhhs.gov/programs/cse/international>

2 The federal IV-D statute provides that "States may enter into reciprocal arrangements for the establishment and enforcement of support obligations with foreign **countries** that are not the subject of a declaration [of reciprocity by the federal government] to the extent consistent with Federal law," 42 U. S. C. A. § 659a(d). The details for a state plan providing for an agreement with a foreign jurisdiction are supplied in 42 U. S. C. A. § 654 ¶ 32(A)....

1           The 2001 addition to Subsection (a) specifically recognizes the doctrine of **comity** as a  
2 legitimate function of state law that on a proper showing provides for the recognition of a  
3 **foreign support order**, *see Mississippi Dept. Human Svcs. v. Shelnut*, 772 So. 2d 1041 (Miss.  
4 2000). Although the determination by the U. S. State Department that a **foreign nation** is a  
5 reciprocating country is binding on all states, recognition of **foreign support orders** through  
6 **comity** is dependent on the law of each UIFSA State. The reference to “remedies under other  
7 law” is intended to recognize the principle of **comity** as developed in the forum State by  
8 statutory or common law, rather than to create a substantive right independent of that law.

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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 State to modify a child support order of **another State** unless the requirements of Section 611 [~~or 615~~] are met.

\* \* \*

On rare occasion, however, the required personal jurisdiction over the respondent may be available only by virtue of the long-arm provisions of this section, which explains why Sections 201, 205, 207, **and** 611 [~~and 615~~] must read in conjunction with one another. An example of such a situation is as follows: the controlling child-support order was issued by a tribunal in State A, which of course had personal jurisdiction over the parties when it issued its order; the obligee and child presently reside in State B (a State the obligor has never even visited); the obligor presently is employed and resides in **Nation X**, although the obligor's "home base" in the United States can be identified as State C where the headquarters of the obligor's employer is located; and, finally, other than **Nation X**, the only states that can claim a nexus with the obligor sufficient to assert personal jurisdiction over him are State C and perhaps State A. Under this fact situation, it is necessary to invoke one of the long-arm bases of Section 201 to assert the personal jurisdiction over the obligor necessary to modify the order. Note that the long-arm statute may not be asserted in State B where the movant resides due to the restriction provided in Section 611, even if a basis exists for assertion of long-arm jurisdiction in that State. The employment connection in State C is likely to permit a tribunal in that State to assert jurisdiction to modify the support order based on the catch-all provision, Subsection (a)(8). Further, a tribunal in State A might also find that it has retained jurisdiction to modify the order under Subsection (a)(8) (remember both parties are nonresidents) given the absence or paucity of other U. S. jurisdictions with a nexus to the obligor, see *Phillips v. Phillips*, 826 S. W. 2d 746 (Tex. App. 1992). Note, however, that such an action by the original issuing State must be exercised with extreme restraint or the restriction on modification in Section 611 will become a nullity. Concern that long-arm jurisdiction will be asserted in less compelling circumstances than presented in this hypothetical situation is not substantiated by experience with Section 201 in establishment cases filed since the enactment of UIFSA. In fact, overreaching assertions of long-arm jurisdiction have been dealt with satisfactorily on a case-by-case basis using due process constitutional or forum non conveniens grounds. *Rains v. Dept. of Social & Health Serv.*, 989 P. 2d 558 (Wash. App. 1998); *Phillips v. Fallen*, 6 S. W. 3d 862 (Mo. 1999), reversing 1999 WL 50159 (Mo. App. W. D., 1999); *Abu-Dalbouh v. Abu-Dalbouh*, 547 N. W. 2d 700 (Minn. App. 1996).

**Reporter's note.** The remaining sections in Article 2 solidify the concepts of personal jurisdiction and its progeny, continuing jurisdiction and controlling orders. If the tribunal has personal jurisdiction over an individual residing in a foreign jurisdiction, application of the provisions of local law should not be affected by that fact. Whether the foreign jurisdiction will recognize and enforce an order based on this fact is beyond the power of the tribunal or UIFSA to control. Interestingly, only Section 210 mentions that an order affected may be from a foreign jurisdiction. To the extent statutory authorization for the actions described in Article 2 are required internationally, the provisions should be located in new Article 7.

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

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

## SECTION 204. SIMULTANEOUS PROCEEDINGS.

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

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

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

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

## SECTION 209. CREDIT FOR PAYMENTS.

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

### Comment

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

**Reporter's note.** *Gathering all the provisions applicable to international cases in Article 7 should eliminate the necessity to pick and choose throughout the Act. Although the three sections*

1 *listed here, Sections 201, 202, and 206(b) are important for international orders, the interested*  
2 *judge or attorney ought not to be required to search the Act for relevant provisions.*  
3

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

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

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

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

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

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

17                                   **Comment**  
18

19           This is not new language; a 2001 amendment moved former Section 205(f) to this stand-  
20 alone section. Complimentary provisions with regard to other aspects of CEJ over a spousal  
21 support order are also moved. An order for spousal support is treated differently than an order for  
22 child support. The issuing tribunal retains continuing, exclusive jurisdiction over an order of  
23 spousal support throughout the entire existence of the support obligation. Sections 205(f) and  
24 206(c) state that the procedures of UIFSA are not available to a responding tribunal to modify  
25 the existing spousal support order of the issuing State. This marks a radical departure from  
26 RURESA, which treated spousal and child support orders identically. Under UIFSA, “interstate”  
27 modification of spousal support is limited to a procedure whereby a proceeding may be initiated  
28 outside of the issuing State, but only the tribunal in the original issuing State may modify the  
29 order under its law. This approach was expected to have minimal effect on actual practice, a  
30 prediction that appears to have been accurate. Interstate modification of pure spousal support was  
31 relatively rare under RURESA, and plays almost no part in the activities of support enforcement  
32 agencies.

1  
2       The prohibition of modification of spousal support by a nonissuing state tribunal under  
3 UIFSA is consistent with the principle that a tribunal should apply local law to such cases to  
4 insure efficient handling and to minimize choice of law problems. Avoiding conflict of law  
5 problems is almost impossible if spousal support orders are subject to modification in a second  
6 State. For example, States take widely varying views of the effect on a spousal support order of  
7 the obligee's remarriage or nonmarital cohabitation. Making a distinction between spousal and  
8 child support is further justified because the standards for modification of child support and  
9 spousal support are very different. In most jurisdictions a dramatic improvement in the obligor's  
10 economic circumstances will have little or no relevance in a proceeding seeking an upward  
11 modification of spousal support, while a similar change in an obligor's situation typically is the  
12 primary basis for an increase in child support. This disparity is founded on a policy choice that  
13 post-divorce success of an obligor-parent should benefit the obligor's child, but not the obligor's  
14 ex-spouse.

15  
16       Finally, UIFSA does not provide for shifting the continuing, exclusive jurisdiction over a  
17 spousal-support order by mutual agreement. That procedure is limited to child support under  
18 Section 205(b)(1). Note that the Act is silent rather than preclusive on the subject. If the parties  
19 wish to enter into such an agreement, it is up to the individual States to decide whether to  
20 recognize it. A waiver of continuing, exclusive jurisdiction and subsequent modification of  
21 spousal support by a tribunal of **another State** simply is not authorized by UIFSA, rather than  
22 prohibited.

23  
24 **Reporter's note.** This is a "what to do?" point. Within the United States there is a live-and-let-  
25 live philosophy about spousal maintenance because the states are in conflict over the correct  
26 approach to modification of alimony. Arguably this attitude should also apply to international  
27 spousal maintenance orders; some may disagree.



1 *business was conducted under URESA and RURESА, and so initially continued under UIFSA.*  
2 *Today, IV-D agencies send their requests directly to the agency in another State or foreign*  
3 *jurisdiction. Private individuals no doubt employ attorneys who operate in basically the same*  
4 *manner, except the contact in the foreign jurisdiction probably will be a local attorney. Stating*  
5 *in Article 7 that Article 3 provisions apply except as otherwise noted may suffice.*

6  
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8 **SECTION 302. PROCEEDING BY MINOR PARENT.**

9 **SECTION 303. APPLICATION OF LAW OF STATE.**

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

11 \* \* \*

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

19 **Comment**  
20

21 Subsection (b) was designed primarily to facilitate interstate enforcement between  
22 UIFSA States and URESA and RURESА States, with some applicability to cases involving  
23 **foreign jurisdictions**. After the nationwide enactment of UIFSA by 1998, *see* Prefatory Note,  
24 *supra*, the subsection retains its utility only with regard to support orders of **foreign**  
25 **jurisdictions** [~~nations~~]. Supplying documentation required by a **foreign jurisdiction** which is  
26 not otherwise required by UIFSA procedure will continue to be appropriate in the international  
27 context for the foreseeable future. An initiating tribunal is authorized to cooperate and provide  
28 whatever information or documentation is required or requested by a **foreign jurisdiction**. For  
29 example, a statement of the amount of support being requested is required by Canadian  
30 provinces before a tribunal will establish a support order. The 2001 amendment adds a duty for  
31 the initiating tribunal to state the amount of **foreign currency** equivalent to that request; there is  
32 a corresponding duty of a responding tribunal to convert the **foreign currency** into dollars if the  
33 **foreign initiating tribunal** does not, Section 305(f).  
34

35 The reference to “the applicable official or market exchange rate” takes into account the

1 present practices of international money markets. A few **countries** continue to maintain an  
2 official exchange rate for their currency. The vast majority of **countries** recognize the fact that  
3 the value of their currency is subject to daily market fluctuations that are reported on the  
4 financial pages of many daily newspapers. Thus, in the example described above, a request for a  
5 specific amount of support in U. S. dollars, which is to be translated into Canadian dollars on a  
6 specific date, will inevitably have a variable value as the **foreign currency** rises or falls against  
7 the U. S. dollar.  
8

9 **Reporter's note.** *The directives regarding foreign currency issues in Sections 304, 305, and 307,*  
10 *are specifically directed to a tribunal "of this State," and do not affect the order going to, or*  
11 *coming from the foreign jurisdiction. Whether the introduction of the debit card should be*  
12 *statutorily recognized is a question for the observers. Another consideration is raised in the*  
13 *Reporter's note to Section 308.*  
14

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

16 \* \* \*

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

#### 21 **SECTION 306. INAPPROPRIATE TRIBUNAL.**

#### 22 **SECTION 307. DUTIES OF SUPPORT ENFORCEMENT AGENCY.**

23 \* \* \*

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

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

29 \* \* \*

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

#### Comment

The 2001 addition of Subsection (b) makes clear that a State has a variety of options in determining the scope of its support enforcement program. In the absence of controlling federal action declaring a **foreign jurisdiction** to be a reciprocating country or political subdivision, *see* Section 102(21)(B)(i), *supra*, each State may designate an official with authority to make a statewide, binding determination recognizing a **foreign country or political subdivision** as having a reciprocal arrangement with the that State.

***Reporter's note.** There is a practical problem in deleting entirely the reference to "foreign country or political subdivision" in Sections 308 and 317, to wit stating a general proposition in Article 7 may be technically correct, but deleting existing language always has more visceral effect. Yes, the comment can clarify, but most judges and lawyers do not have ready access to comments.*

#### **SECTION 309. PRIVATE COUNSEL.**

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

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

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

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

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

#### **SECTION 315. NONPARENTAGE AS DEFENSE.**

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

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



1 and the status of a proceeding in the **other State or foreign reciprocating jurisdiction** [~~country~~  
2 ~~or political subdivision~~]. A tribunal of this State may furnish similar information by similar  
3 means to a tribunal of **another State or foreign reciprocating jurisdiction** [~~country or~~  
4 ~~political subdivision~~].

#### 5 **Comment**

6  
7 This section authorizes communications between tribunals in order to facilitate decisions.  
8 The 2001 amendments extend the coverage of the section to tribunals of **foreign jurisdictions**  
9 ~~[nations]~~. Broad cooperation between tribunals is permitted to expedite establishment and  
10 enforcement of a support order.  
11

#### 12 **SECTION 318. ASSISTANCE WITH DISCOVERY.**

#### 13 **SECTION 319. RECEIPT AND DISBURSEMENT OF PAYMENTS.**

## ARTICLE 4

## ESTABLISHMENT OF SUPPORT ORDER

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

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

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

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

### Comment

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

1

**ARTICLE 5**

2

**ENFORCEMENT OF ORDER OF ANOTHER STATE WITHOUT REGISTRATION**

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

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

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

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

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

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

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

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

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

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

22 **Reporter's note:** Section 602 may provide far too much statutory detail in the context of  
23 international orders. Not only are the federal forms available, see Section 311(b), but similar  
24 approved forms apparently will be available for international use, Draft Convention, Prel. Doc.  
25 29, Annex 1. Indeed, section 602 may also unduly restrict full utilization of modern technology.

1 *Expert opinion is needed on whether, and how, this section may be amended to serve the needs*  
2 *of the child support community, both for the U. S. and foreign jurisdictions. Luckily, that expert*  
3 *opinion is available from the advisors and observers.*  
4

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

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

8           (b) A registered order issued in **another State** is enforceable in the same manner and is  
9 subject to the same procedures as an order issued by a tribunal of this State.

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

12           **SECTION 604. CHOICE OF LAW.**

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

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

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

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

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

21          (c) A responding tribunal of this State shall apply the procedures and remedies of this  
22 State to enforce current support and collect arrears and interest due on a support order [~~of~~  
23 **another State**] registered in this State.

24          (d) **If there is only one order, [A]**after a tribunal of this or **another State** determines  
25 which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this

1 State shall prospectively apply the law of the State issuing the controlling order, including its law  
2 on interest on arrears, on current and future support, and on consolidated arrears.

3 **Reporter's note.** *Section 604 is virtually a mirror image of UIFSA with regard to choice of law,*  
4 *see Draft Convention, Prel. Doc. 29, art. 28.*  
5

## 6 **PART 2**

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

8  
9 **Reporter's note:** *Article 6, Part 2, seems overwritten in retrospect; the advisors and observers*  
10 *are best situated to give guidance on appropriate amendments, if any.*  
11

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

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

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

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

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

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

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

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

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

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

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

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

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

13 **SECTION 606. PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT**  
14 **OF REGISTERED ORDER.**

15 (a) A nonregistering party seeking to contest the validity or enforcement of a registered  
16 order in this State shall request a hearing within [20] days after notice of the registration. The  
17 nonregistering party may seek to vacate the registration, to assert any defense to an allegation of  
18 noncompliance with the registered order, or to contest the remedies being sought or the amount  
19 of any alleged arrearages pursuant to Section 607.

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

22 (c) If a nonregistering party requests a hearing to contest the validity or enforcement of  
23 the registered order, the registering tribunal shall schedule the matter for hearing and give notice



1 to the parties of the date, time, and place of the hearing.

## 2 **Comment**

3  
4 Subsection (a) directs the “nonregistering party” to contest the registration of a **foreign**  
5 **order** within a short period of time or forfeit the opportunity to contest. UIFSA provides that  
6 either the obligor, the obligee, or a state enforcement agency, may seek to register a **foreign**  
7 **support order**. In fact, even a stranger to the litigation, for example a grandparent or an  
8 employer of an alleged obligor, may register a support order. Thereafter, the nonregistering party  
9 is put on notice of the registration and is required to assert any existing defense to the alleged  
10 order or forfeit the opportunity. Note that either the obligor or the obligee may have objections to  
11 the registered order, although in the vast majority of cases doubtless the obligor will be the  
12 nonregistering party. For example, there is a possibility that in multiple order situations either  
13 party may register the order most favorable to that party rather than the likely controlling order,  
14 thus triggering a contest. However, such chicanery is contrary to Subsection 605(c) and is  
15 specifically forbidden for a support enforcement agency, Subsection 307(c).

16  
17 On the other hand, a nonregistering obligor may assert defenses such as “payment” or  
18 “the obligation has terminated” in response to allegations of noncompliance with the registered  
19 order. Similarly, a constitutionally-based attack may be asserted, i.e., an alleged lack of personal  
20 jurisdiction by the issuing tribunal over a party. There is no defense, however, to registration of a  
21 valid **foreign support order**.

22  
23  
24 ***Reporter’s note:** The repeated use in the Comments to Article 6 of the terms “foreign judgment”*  
25 *or “foreign support order” is clearly used to mean a “sister state judgment or order.”*  
26

## 27 **SECTION 607. CONTEST OF REGISTRATION OR ENFORCEMENT.**

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

- 30 (1) the issuing tribunal lacked personal jurisdiction over the contesting party;  
31 (2) the order was obtained by fraud;  
32 (3) the order has been vacated, suspended, or modified by a later order;  
33 (4) the issuing tribunal has stayed the order pending appeal;  
34 (5) there is a defense under the law of this State to the remedy sought;  
35 (6) the alleged consolidated arrears amount is incorrect [~~full or partial~~  
36 ~~payment has been made~~];

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

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

4 (b) If a party presents evidence establishing a full or partial defense under subsection (a),  
5 a tribunal may stay enforcement of the registered order, continue the proceeding to permit  
6 production of additional relevant evidence, and issue other appropriate orders. An uncontested  
7 portion of the registered order may be enforced by all remedies available under the law of this  
8 State.

9 (c) If the contesting party does not establish a defense under subsection (a) to the validity  
10 or enforcement of the order, the registering tribunal shall issue an order confirming the order.

#### 11 **Comment**

12  
13 Subsection (a) places the burden on the nonregistering party to assert narrowly defined  
14 defenses to registration of a support order. The 2001 amendment added an obvious defense that  
15 was inadvertently omitted from the original list of defenses. In a multiple order situation, if the  
16 nonregistering party contests the allegation regarding the controlling order, either because it  
17 allegedly has not been registered or because another order has been misidentified as such, the  
18 nonregistering party may defend against enforcement of another order by asserting the existence  
19 of a controlling order. Presumably the defense must be substantiated by registration of the other  
20 alleged controlling order to be effective.

21  
22 If the obligor is liable for current support, in the absence of a valid defense under  
23 Subsection (b) the registering tribunal must enter an order to enforce that obligation. *State Dept.*  
24 *of Revenue ex rel. Rochell v. Morris*, 736 So. 2d 41 (Fla. App. 1999); *Welsher v. Rager*, 491 S.  
25 E. 2d 661 (N. C. App. 1997); *Cowan v. Moreno*, 903 S. W. 2d 119 (Tex. App. —Austin 1995).  
26 Proof of arrearages must result in enforcement; under the Bradley Amendment, 42 U. S. C.  
27 Section 666(a)(10), all States are required to treat child support payments as final judgments as  
28 they come due (or lose federal funding). Therefore, such arrearages are not subject to retroactive  
29 modification.

30  
31 Subsection (c) provides that failure to successfully contest a registered order requires the  
32 tribunal to confirm the validity of the registered order. Although the statute is silent on the  
33 subject, it seems likely that res judicata requires that both the registering and nonregistering party  
34 who fail to register the "true" controlling order will be estopped from subsequently collaterally  
35 attacking the confirmed order on the basis that the unmentioned "true order should have been  
36 confirmed instead."

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

### Comment

If the nonregistering party fails to contest, the registered support order is confirmed by operation of law and no tribunal action is necessary. If contested, a registered support order must be confirmed by the forum tribunal if the defense authorized in Section 607 is rejected after a hearing. Either result precludes the nonregistering party from raising any issue that could have been asserted in a hearing. Confirmation of a **foreign support order** validates both the terms of the order and the asserted arrearages.

## PART 3

## REGISTRATION AND MODIFICATION OF CHILD-SUPPORT ORDER.

**Reporter’s note:** *Here the rubber meets the road. The Draft Convention mentions repeatedly the terms “modify” (4) and modification (12). Nonetheless, some important questions are left unanswered on this subject, especially for the United States because of our adherence to the requirement of personal jurisdiction to bind the parties to a support order. One thing is certain; the current UIFSA system for modification is applicable only to interstate cases, not international cases.*

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

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

**(b) A party or support enforcement agency seeking to modify, or to modify and**

1 enforce, a child-support order issued in a foreign reciprocating jurisdiction shall register  
2 that order in this State in the same manner provided in Part 1 if the order has not been  
3 registered. Thereafter, the modification procedure is not subject to Sections 609 through  
4 614, but is governed by Article 7.

5 **Comment**

6  
7 Sections 609 through **614** ~~[615]~~ deal with situations in which it is permissible for a  
8 registering State to modify the existing child-support order of **another State**. A petitioner  
9 wishing to register a support order of **another State** for purposes of modification must conform  
10 to the general requirements for pleadings in Section 311 (Pleadings and Accompanying  
11 Documents), and follow the procedure for registration set forth in Section 602 (Procedure To  
12 Register Order for Enforcement). If the tribunal has the requisite personal jurisdiction over the  
13 parties as established in Sections 611 or ~~[§]~~ 613, ~~[or 615]~~, modification may be sought in  
14 conjunction with registration and enforcement, or at a later date after the order has been  
15 registered, confirmed, and enforced.  
16

17 **SECTION 610. EFFECT OF REGISTRATION FOR MODIFICATION.**

18 **SECTION 611. MODIFICATION OF CHILD-SUPPORT ORDER OF ANOTHER**  
19 **STATE.**

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

23 (1) the following requirements are met:

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

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

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

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

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

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

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

18 (e) On the issuance of an order by a tribunal of this State modifying a child-support order  
19 issued in **another State**, the tribunal of this State becomes the tribunal having continuing,  
20 exclusive jurisdiction.

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

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

1           **SECTION 614. NOTICE TO ISSUING TRIBUNAL OF MODIFICATION.**

2  
3                           **DETERMINATION OF PARENTAGE**

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

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

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

1 **PROPOSED ARTICLE 7**

2 **ESTABLISHMENT, RECOGNITION, ENFORCEMENT, AND MODIFICATION OF**

3 **SUPPORT ORDERS INVOLVING PARTY OR CHILD RESIDING IN FOREIGN**

4 **JURISDICTION**

5 ***Reporter’s note.** In considering what to include in a new iteration of UIFSA that would assist*  
6 *bench and bar, there is one crucial fact to bear in mind. If the new maintenance convention is*  
7 *ratified, its language becomes substantive law for all of the States. Arguably a listing of those*  
8 *provisions to which the United States has taken a reservation probably would be very useful to*  
9 *the practice. Otherwise, the language of the convention is what it is, and is not subject to*  
10 *domestic amendment by the ULC—interpretation perhaps, but not amendment.*

11  
12 *This is not to say the UIFSA should remain silent with regard to a support order issued in*  
13 *a foreign jurisdiction that is entitled to recognition and enforcement by the terms of the proposed*  
14 *convention. As previously mentioned, the terms “modify” and “modification” are much*  
15 *employed in the text of the draft convention, but many questions go unanswered. I believe that*  
16 *UIFSA may legitimately fill these gaps.*

17  
18 **SECTION 701. ESTABLISHMENT OF SUPPORT ORDER INVOLVING PARTY**

19 **OR CHILD RESIDING IN FOREIGN COUNTRY. In a proceeding under this [Act], a**

20 **tribunal of this State shall apply the provisions of this [Act] to establish a support order**

21 **binding on a nonresident obligor or obligee subject to the jurisdiction of the tribunal**

22 **irrespective of whether the nonresident party or the child reside:**

23 **(1) in a foreign country that will not recognize and enforce the order; or**

24 **(2) in a foreign jurisdiction that is committed to recognize and enforce such an**  
25 **order by agreement, treaty, or otherwise.**

26 **SECTION 702 [615]. [RECOGNITION OF] ESTABLISHMENT OF CHILD**  
27 **SUPPORT ORDER INVOLVING FOREIGN RECIPROCATING JURISDICTION**  
28 **WHEN MODIFICATION NOT AVAILABLE.**

(a) If a **foreign reciprocating jurisdiction** ~~[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 **establish a** ~~[modify the]~~ child-support order and bind all individuals subject to the personal jurisdiction of the tribunal. ~~[whether or not the e]~~ **C**onsent to modification of a child-support order otherwise required of the individual pursuant to Section 611 **is not required.** ~~[been given or whether t]~~ **T**he individual seeking modification **may be** ~~[is]~~ a resident of this State or of the **foreign reciprocating jurisdiction** ~~[country or political subdivision]~~.

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

#### **Comment**

The amendments of 2001 added these provisions (then Section 615), which expanded upon language moved from Section 611 (a)(2) in the 1996 Act. A tribunal of one of the several States may modify a support order of a **foreign country or political subdivision** when a tribunal of the **foreign entity** would have jurisdiction to modify its order under the standards of UIFSA, but under the law or procedure of that **foreign entity** the tribunal will not or may not exercise that jurisdiction to modify its order. The standard example cited for the necessity of this special rule involves the conundrum posed to a tribunal of a **foreign country or political subdivision that has** a requirement that the parties be physically present in order to sustain a modification of child support, and lacking the authority to compel a party residing outside of the borders of the **country** to appear. In such an instance, a tribunal of the forum State may modify the order if it has personal jurisdiction over both parties, including jurisdiction over the absent party who has submitted to the jurisdiction of the forum by making a request for modification of the support order.

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

### **SECTION 703. RECOGNITION AND ENFORCEMENT OF MODIFICATION OF FOREIGN SUPPORT ORDER INVOLVING PARTY OR CHILD RESIDING IN FOREIGN JURISDICTION.**



1 (a) Except as provided in Sections 501 through 506 and 609 through 614, a tribunal  
2 of this State shall apply the provisions of this Act to register and enforce a modification of a  
3 support order of a foreign jurisdiction if:

4 (1) the modification was rendered by the judicial or administrative authority  
5 that rendered the original decision; and

6 (2) the support order has previously been recognized and enforced by a  
7 tribunal of this State or another state;

8 (b) Except as provided in subsection (a), a tribunal of this State shall apply the  
9 provisions of this Act to register and enforce a modification of a support order of a foreign  
10 jurisdiction rendered by a judicial or administrative authority other than that which  
11 rendered the original decision if:

12 (1) the modification is recognized to be enforceable by the original issuing  
13 judicial or administrative authority, which does not claim continuing jurisdiction over the  
14 original order; and

15 (2) the judicial or administrative authority that modified the support order  
16 did so under similar factual circumstances that conferred, or would have conferred  
17 jurisdiction on a tribunal of this State to make such a decision.

18 (c) If the tribunal of this State cannot register and enforce the modification decision  
19 because the factual circumstances would not provide personal jurisdiction over an  
20 individual part, the tribunal of this State shall take all appropriate measures to establish a  
21 decision if it may assert personal jurisdiction over the individual parties.

22 *Reporter's note. Because in the rest of the world the residence of the obligee (creditor) and child*  
23 *is determinative of jurisdiction to establish and modify a support order, the issue of personal*  
24 *jurisdiction over the obligor (creditor) is basically moot. This distinction forms the basis of*  
25 *Article 17 Bases for Recognition and Enforcement, infra. The ability of the United States to take*

1 a reservation regarding creditor-based jurisdiction is agreed in Article 17 2. This provision  
2 takes that agreement an identical step forward with regard to a modification of the original  
3 support order.  
4

5 **SECTION 704. MODIFICATION OF DOMESTIC CHILD SUPPORT ORDER**  
6 **INVOLVING FOREIGN RECIPROCATING JURISDICTION.**

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

10 **(1) the child support order involves an obligor, obligee, or child residing in a**  
11 **foreign jurisdiction;**

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

14 **(3) the tribunal of this State may assert personal jurisdiction over the parties**  
15 **in accordance with the long-arm jurisdictional nexuses listed in Section 201 (a)(1)-(8).**

16  
17 ***Reporter's note.*** In drafting UIFSA 1992 critical choices were made regarding modification of  
18 an existing child support order when all parties and the child had left the issuing State. First, the  
19 original order was to remain in force as the controlling order until modified. Second, the issue  
20 was what to do when the parties resided in different States. The deciding factor centered on the  
21 undesirable effect of ambush jurisdiction. The drafting committee objected to the possibility that  
22 the parties would vie to strike first to obtain a home town advantage. Arguably this could  
23 discourage continued contact with the children by the obligor for fear of a lawsuit in a distant  
24 forum. Thus, modification in a forum with long-arm personal jurisdiction over both parties was  
25 to be avoided. Indeed, repeated modification suits were to be avoided. Ultimately, an alternative  
26 was produced, which has come to be known as "the movant must play an away game," as  
27 exemplified in Section 611.  
28

29 The requirements of Section 611, and the prohibition against assertion of long-arm  
30 jurisdiction in the international context makes much less sense. Only because the United States is  
31 wedded to personal jurisdiction does this issue arise; foreign jurisdictions regard the support  
32 order to be one of the country or political subdivision, and jurisdiction is based on the creditor's  
33 residence. Consideration was given to labeling a support order of a State as an order of the  
34 United States. Conforming modification to the general principles of state-control of the subject

1 *matter through UIFSA, with an exception for appropriate assertion of long-arm jurisdiction,*  
2 *seems the more conservative approach. Of course, the movant may also choose to seek*  
3 *modification in the other party's place of residence.*  
4

1 APPENDIX A

2 JURISDICTIONAL PROVISIONS

3 DRAFT MAINTENANCE CONVENTION

4  
5 **Reporter's note.** *It has taken five years to come to the brink of a final draft of the Convention of*  
6 *the International Recovery of Child Support and other Forms of Family Maintenance. It would*  
7 *be both duplicative and counter-productive to repeat in UIFSA the recognition and enforcement*  
8 *provision of the draft convention. That is, if the treaty is signed and ratified by the United States,*  
9 *it becomes the effective substantive law on the subject for all of the States. A deviation in UIFSA*  
10 *of any aspect covered in the convention would be a nullity. The provisions limiting modification*  
11 *proceedings and dealing with recognition and enforcement are set forth below.*

12  
13 *In the draft convention there is only one set of substantive answers regarding*  
14 *modification of an order of a foreign jurisdiction to be identified and discussed, to wit, Article*  
15 *15.*

16  
17 CHAPTER IV – RESTRICTIONS ON BRINGING PROCEEDINGS

18 **Article 15 Limit on proceedings**

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

23  
24 **Reporter's note.** *This provision facially models UIFSA § 205, Continuing Exclusive Jurisdiction*  
25 *to Modify Child Support Order [CEJ], albeit with more specific exceptions. The most noticeable*  
26 *(glaring?) of these is the fact that CEJ applies only to the continuing residence in the issuing*  
27 *forum of the creditor (obligee). In addition, the continuing residence of the child in the issuing*  
28 *forum does not have a preclusive effect as it does in § 205. To at least some degree, these*  
29 *distinction undercut the equal treatment requirements of UIFSA. Moreover, this provision most*  
30 *certainly does not freeze absolutely the continuing exclusive jurisdiction to modify spousal*  
31 *support in the issuing forum, as does UIFSA § 211.*

32  
33 *While it is tempting to suggest the debtor (obligor) merely be added to this provision,*  
34 *given the exception providing a variety of alternative choices to the creditor, this does not seem*  
35 *possible under the convention.*

36  
37 2. The previous paragraph shall not apply –

38  
39 a) where, except in disputes relating to maintenance obligations in respect of children, there is  
40 agreement in writing between the parties to the jurisdiction of that other Contracting State;<sup>4</sup>  
41

1 *Reporter's note. Professors Spector and Sampson have had an ongoing, although inconclusive,*  
2 *debate over whether at present under UIFSA the obligor and obligee can agree to submit a child*  
3 *support issue to a forum that has no nexus with either party or the child. It does appear that in*  
4 *the absence of a dispute the parties may do so under this provision.*

5  
6 b) where the creditor submits to the jurisdiction of that other Contracting State either expressly  
7 or by defending on the merits of the case without objecting to the jurisdiction at the first  
8 available opportunity;  
9

10 *Reporter's note. This provision also appears to amend UIFSA 2001. If either party or the child*  
11 *continue to live in the issuing forum, the nonresident obligor may successfully plead CEJ and*  
12 *object to a modification being sought in the forum in which he or she resides. The motivation for*  
13 *this action may appear counter-intuitive at first glance, but examination of the significant*  
14 *difference in child support guidelines in various States quickly provides a reason for the obligor*  
15 *to prefer the existing order and that forum for modification.*

16  
17 c) where the competent authority in the State of origin cannot, or refuses to, exercise jurisdiction  
18 to modify the decision or make a new decision; or,  
19

20 *Reporter's note. This provision basically tracks current UIFSA 615, which has been retained in*  
21 *Article 7 as Section 703, above. Although having two substantive provisions, one effective for the*  
22 *creditor (obligee), and another for the debtor (obligor), is theoretically possible, enacting*  
23 *provisions that allow the debtor to constrict the creditor's choices almost certainly will result in*  
24 *UIFSA conflicting with the new convention.*

25  
26 d) where the decision made in the State of origin cannot be recognised or declared enforceable in  
27 the Contracting State where proceedings to modify the decision or make a new decision are  
28 contemplated.  
29

30 *Reporter's note. The conflicts that may be triggered between this provision and amendments to*  
31 *UIFSA follow the patterns described above.*  
32  
33

## 34 **CHAPTER V – RECOGNITION AND ENFORCEMENT**

### 35 ***Article 16 Scope of the Chapter***

36 1. This Chapter applies to a decision rendered by a judicial or administrative authority in respect  
37 of a maintenance obligation. Such decision includes a settlement or agreement concluded before  
38 or approved by such an authority. A decision may include automatic adjustment by indexation  
39 and a requirement to pay arrears, retroactive maintenance or interest and a determination of costs  
40 or expenses.  
41

42 2. If a decision does not relate solely to a maintenance obligation, the effect of this Chapter is  
43 limited to the parts of the decision which concern maintenance obligations.  
44

45 3. For the purpose of paragraph 1, “administrative authority” means a public body whose

1 decisions, under the law of the State where it is established –

2  
3 a) may be made subject of an appeal to or review by a judicial authority; and

4  
5 b) have the same force and effect as a decision of a judicial authority on the same matter.

6  
7 [4. This Chapter also applies to authentic instruments and private agreements relating to a  
8 maintenance obligation in accordance with Article 26. ]

9  
10 5. The provisions of this Chapter apply to an application for recognition and enforcement made  
11 directly to a competent authority of the State addressed in accordance with Article 34.

12  
13 ***Article 17 Bases for recognition and enforcement***

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

16  
17 a) the respondent was habitually resident in the State of origin at the time proceedings were  
18 instituted;

19  
20 b) the respondent has submitted to the jurisdiction either expressly or by defending on the merits  
21 of the case without objecting to the jurisdiction at the first available opportunity;

22  
23 c) the creditor was habitually resident in the State of origin at the time proceedings were  
24 instituted;

25  
26 d) the child for whom maintenance was ordered was habitually resident in the State of origin at  
27 the time proceedings were instituted, provided that the respondent has lived with the child in that  
28 State or has resided in that State and provided support for the child there;

29  
30 e) except in disputes relating to maintenance obligations in respect of children, there has been  
31 agreement to the jurisdiction in writing by the parties; or

32  
33 f) the decision was made by an authority exercising jurisdiction on a matter of personal status or  
34 parental responsibility, unless that jurisdiction was based solely on the nationality of one of the  
35 parties.

36  
37 2. A Contracting State may make a reservation, in accordance with Article 57, in respect of  
38 paragraph 1 c), e) or f). 5

39  
40 3. A Contracting State making a reservation under paragraph 2 shall recognise and enforce a  
41 decision if its law would in similar factual circumstances confer or would have conferred  
42 jurisdiction on its authorities to make such a decision.

43  
44 4. A Contracting State shall, if recognition of a decision is not possible as a result of a  
45 reservation under paragraph 2, and if the debtor is habitually resident in that State, take all  
46 appropriate measures to establish a decision. The preceding sentence does not apply to direct

1 applications for recognition and enforcement under Article 16(5) unless a new application is  
2 made under Article 10(1) *d*).  
3

4 5. A decision in favour of a child under the age of 18 which cannot be recognised by virtue only  
5 of a reservation under Article 17(1) *c*), *e*) or *f*) shall be accepted as establishing the eligibility of  
6 that child for maintenance in the requested State.  
7

8 6. A decision shall be recognised only if it has effect in the State of origin, and shall be enforced  
9 only if it is enforceable in the State of origin.  
10

### 11 ***Article 18 Severability and partial recognition and enforcement***

12 1. If the State addressed is unable to recognise or enforce the whole of the decision it shall  
13 recognise or enforce any severable part of the decision which can be so recognised or enforced.  
14

15 2. Partial recognition or enforcement of a decision can always be applied for.  
16

### 17 ***Article 19 Grounds for refusing recognition and enforcement***

18 Recognition and enforcement of a decision may be refused –  
19

20 *a*) if recognition and enforcement of the decision is manifestly incompatible with the public  
21 policy (“*ordre public*”) of the State addressed;  
22

23 *b*) if the decision was obtained by fraud in connection with a matter of procedure;  
24

25 *c*) if proceedings between the same parties and having the same purpose are pending before an  
26 authority of the State addressed and those proceedings were the first to be instituted;  
27

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

33 *e*) if the respondent had neither –  
34

35 *i*) proper notice of the proceedings and an opportunity to be heard, nor  
36

37 *ii*) proper notice of the decision and the opportunity to challenge it on fact and law; or  
38

39 *f*) if the decision was made in violation of Article 15.  
40

### 41 ***Article 20 Procedure on an application for recognition and enforcement***

42 1. Subject to the provisions of this Convention, the procedures for recognition and enforcement  
43 shall be governed by the law of the State addressed.  
44

45 2. Where an application for recognition and enforcement of a decision has been made through  
46 Central Authorities in accordance with Chapter III, the requested Central Authority shall

1 promptly either –

2  
3 a) refer the application to the competent authority which shall without delay declare the decision  
4 enforceable or register the decision for enforcement; or

5  
6 b) if it is the competent authority take such steps itself.  
7

8 3. In the case of a direct application to a competent authority in the requested State in accordance  
9 with Article 16(5), that authority shall without delay declare the decision enforceable or register  
10 the decision for enforcement.  
11

12 4. A declaration or registration may be refused only for the reasons specified in [Articles 17 and  
13 19] [Article 19 a)]. 7 At this stage neither the applicant nor the respondent is entitled to make  
14 any submissions.  
15

16 5. The applicant and the respondent shall be promptly notified of the declaration or registration,  
17 or the refusal thereof, made under paragraphs 2 and 3 and may bring a challenge or appeal on  
18 fact and on a point of law.  
19

20 6. A challenge or an appeal is to be lodged within 30 days of notification under paragraph 6. If  
21 the contesting party is not resident in the Contracting State in which the declaration or  
22 registration was made or refused, the challenge or appeal shall be lodged within 60 days of  
23 notification.  
24

25 7. A challenge or appeal may be founded only on the following –  
26

27 a) the grounds for refusing recognition and enforcement set out in Article 19;  
28

29 b) the bases for recognition and enforcement under Article 17;  
30

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

34 8. A challenge or an appeal by a respondent may also be founded on the fulfilment of the debt if  
35 the recognition and enforcement was only applied for in respect of payments that fell due in the  
36 past.  
37

38 9. The applicant and the respondent shall be promptly notified of the decision following the  
39 challenge or the appeal.  
40

41 10. Further appeal is possible only if permitted by the law of the State addressed.  
42

43 11. Nothing in this Article shall prevent the use of simpler or more expeditious procedures.  
44

#### 45 ***Article 21 Documents***

46 1. An application for recognition and enforcement under Article 20 shall be accompanied by the



1 following –

2  
3 a) a complete text of the decision;

4  
5 b) a document stating that the decision is enforceable in the State of origin and, in the case of a  
6 decision by an administrative authority, a document stating that the requirements of Article 16(3)  
7 are met;

8  
9 c) if the respondent did not appear in the proceedings in the State of origin, a document  
10 establishing that the conditions of Article 19 e) were met;

11  
12 d) where necessary, a document showing the amount of any arrears and the date such amount  
13 was calculated;

14  
15 e) where necessary, in the case of a decision providing for automatic adjustment by indexation, a  
16 document providing the information necessary to make the appropriate calculations;

17  
18 f) where necessary, documentation showing the extent to which the applicant received free legal  
19 assistance in the State of origin.

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

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

29  
30 a) by the Central Authority of the requesting State, where the application has been made in  
31 accordance with Chapter III;

32  
33 b) by the applicant, where the application has been made directly to a competent authority of the  
34 State addressed.

35  
36 ***Article 22 Procedure on an application for recognition***

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

40  
41 ***Article 23 Findings of fact***

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

44 ***Article 24 No review of the merits***

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

1  
2 **Article 25 Physical presence of the child or applicant**

3 [The physical presence of the child or applicant shall not be required in any proceedings in the  
4 requested State under this Chapter.]  
5

6 **[Article 26 Authentic instruments and private agreements]**

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

11 2. An application for recognition and enforcement of an authentic instrument or a private  
12 agreement shall be accompanied by the following –  
13

14 a) a complete text of the authentic instrument or of the private agreement;  
15

16 b) a document stating that the particular authentic instrument or private agreement is enforceable  
17 as a decision in the State of origin.  
18

19 3. Recognition and enforcement of an authentic instrument or a private agreement may be  
20 refused if –  
21

22 a) the recognition and enforcement is manifestly incompatible with the public policy of the  
23 requested State;  
24

25 b) the authentic instrument or the private agreement was obtained by fraud or falsification;  
26

27 c) the authentic instrument or the private agreement is incompatible with a decision rendered  
28 between the same parties and having the same purpose, either in the State addressed or in another  
29 State, provided that this latter decision fulfils the conditions necessary for its recognition and  
30 enforcement in the State addressed.  
31

32 4. The provisions of this Chapter, with the exception of Articles 17, 19, 20(7) and 21(1) and (2),  
33 shall apply *mutatis mutandis* to the recognition and enforcement of a private agreement or  
34 authentic instrument save that –  
35

36 a) a declaration or registration in accordance with Article 20(4) may be refused only for the  
37 reasons specified in [paragraph 3] [paragraph 3 a)]; and  
38

39 b) a challenge or appeal as referred to in Article 20(6) may be founded only on the following –  
40

41 i) the grounds for refusing recognition and enforcement set out in Article 26(3);  
42

43 ii) the authenticity, veracity or integrity of any document transmitted in accordance with Article  
44 26(2).  
45

46 5. Proceedings for recognition and enforcement of an authentic instrument or a private agreement

1 shall be suspended if proceedings concerning its validity are pending before a competent  
2 authority.

3  
4 6. A State may declare that applications for recognition and enforcement of authentic instruments  
5 and private agreements shall not be made directly to a competent authority. ]  
6

7 ***[Article 27 Reciprocal arrangements involving the use of provisional and confirmation orders***

8 Where a decision is produced by the combined effect of a provisional order made in one State  
9 and an order by an authority in another State (“the confirming State”) confirming the provisional  
10 order –  
11

12 a) each of those States shall be deemed for the purposes of this Chapter to be a State of origin;  
13

14 b) the requirements of Article 19 e) shall be met if the respondent had proper notice of the  
15 proceedings in the confirming State and an opportunity to oppose the confirmation of the  
16 provisional order; and  
17

18 c) the requirement of Article 17(6) that a decision be enforceable in the State of origin shall be  
19 met if the decision is enforceable in the confirming State.]  
20  
21

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

23 ***Article 28 Enforcement under national law***

24 1. Subject to the provisions of this Chapter, enforcement shall take place in accordance with the  
25 law of the State addressed.  
26

27 2. Enforcement shall be prompt.  
28

29 3. In the case of applications through Central Authorities, where a decision has been declared  
30 enforceable or registered for enforcement under Chapter V, enforcement shall proceed without  
31 the need for further action by the applicant.  
32

33 4. Effect shall be given to any rules applicable in the State of origin of the decision relating to the  
34 duration of the maintenance obligation.  
35

36 5. Any limitation on the period for which arrears may be enforced shall be determined either by  
37 the law of the State of origin of the decision or by the law of the State addressed, whichever  
38 provides for the longer limitation period.  
39

40 ***Article 29 Non-discrimination***

41 The requested State shall provide at least the same range of enforcement methods for cases under  
42 this Convention as are available in domestic cases.  
43

44 ***Article 30 Enforcement measures***

45 1. Contracting States shall make available in domestic law effective measures to enforce

1 decisions under this Convention.

2  
3 [2. Such measures may include –

4  
5 a) wage withholding;

6  
7 b) garnishment from bank accounts and other sources;

8  
9 c) deductions from social security payments;

10  
11 d) lien on or forced sale of property;

12  
13 e) tax refund withholding;

14  
15 f) withholding or attachment of pension benefits;

16  
17 g) credit bureau reporting;

18  
19 h) denial, suspension or revocation of various licenses (for example, driving licenses). ]

20  
21 ***Article 31 Transfer of funds***

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

25  
26 2. A Contracting State, under whose law the transfer of funds is restricted, shall accord the  
27 highest priority to the transfer of funds payable under this Convention.

28  
29 ***Article 32 Information concerning enforcement rules and procedures***

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

34  
35  
36 **CHAPTER VII – PUBLIC BODIES**

37 ***Article 33 Public bodies as applicants***

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

41  
42 2. The right of a public body to act in place of an individual to whom maintenance is owed or to  
43 seek reimbursement of benefits provided to the creditor in place of maintenance shall be  
44 governed by the law to which the body is subject.

1 3. A public body may seek recognition or claim enforcement of –  
2

3 a) a decision rendered against a debtor on the application of a public body which claims payment  
4 of benefits provided in place of maintenance;  
5

6 b) a decision rendered between a creditor and debtor to the extent of the benefits provided to the  
7 creditor in place of maintenance.  
8

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