

D R A F T

FOR APPROVAL

AMENDMENTS TO UNIFORM INTERSTATE FAMILY SUPPORT ACT (2001)

NATIONAL CONFERENCE OF COMMISSIONERS

ON UNIFORM STATE LAWS

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AMENDMENTS TO UNIFORM INTERSTATE FAMILY SUPPORT ACT (2001)

WITH REPORTER'S NOTES

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By

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

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**DRAFTING COMMITTEE ON AMENDMENTS TO UNIFORM INTERSTATE
FAMILY SUPPORT ACT (2001)**

The Committee appointed by and representing the National Conference of Commissioners on Uniform State Laws in drafting these amendments consists of the following individuals:

BATTLE R. ROBINSON, 104 W. Market St., Georgetown, DE 19947, *Chair*
MARLIN J. APPELWICK, One Union Square, 600 University St., Seattle, WA 98101
BARBARA ANN ATWOOD, University of Arizona - James E. Rogers College of Law, 1201 E. Speedway, P.O. Box 210176, Tucson, AZ 85721-0176
DEBORAH E. BEHR, Office of Attorney General, P.O. Box 110300, Juneau, AK 99811
VINCENT C. DELIBERATO, JR., Legislative Reference Bureau, Main Capitol Building, Room 641, Harrisburg, PA 17120-0033
GAIL H. HAGERTY, Burleigh County Court House, P.O. Box 1013, 514 E. Thayer Ave., Bismarck, ND 58502-1013
LISA HARRIS-MOORHEAD, Legislature of the Virgin Islands, 100 Lagoon Complex Homes, Suite 2, Frederiksted, St. Croix, USVI 00840
KAY P. KINDRED, University of Nevada, Las Vegas, 4505 Maryland Pkwy., Box 451003, Las Vegas, NV 89154-1003
PAUL M. KURTZ, University of Georgia School of Law, Athens, GA 30602-6012
HARRY L. TINDALL, 1300 Post Oak Blvd., Suite 1550, Houston, TX 77056-3081
JOHN J. SAMPSON, University of Texas School of Law, 727 E. Dean Keeton, Austin, TX 78705, *Reporter*

CANADIAN MEMBERS

DENISE GERVAISE, Ministere de la Justice du Quebec, 1200, Route de L'Eglise, 4e etage, Saint-Foy, Quebec, Canada G1V 4M1
TRACY MORROW, Family Law Branch, Manitoba Justice, 1230 - 405 Broadway, Winnipeg, Manitoba, Canada R3C 3L6
ANDINA VAN ISSCHOF, Department of Justice Canada, 284 Wellington St., Ottawa, Ontario, Canada KIA 0H8

ADVISORS

CLAUDIA E. DE BUEN UNNA, Mariano Escobedo 353-A Desp. 1402, Polanco, Mexico 11560, *Advisor*
ANA MARIA KUDISCH, Agustin Gonzalez de Cossio #229, Col. Del Valle, Deleg. Benito Juarez, Mexico 03100, *Advisor*

EX OFFICIO

MARTHA LEE WALTERS, Oregon Supreme Court, 1163 State St., Salem, OR 97301-2563, *President*
WILLIAM H. HENNING, University of Alabama School of Law, Box 870382, Tuscaloosa, AL 35487-0382, *Division Chair*

AMERICAN BAR ASSOCIATION ADVISOR

GLORIA F. DEHART, 265 Willamette Ave., Kensington, CA 94708-1055, *ABA Advisor*

JOSEPH W. BOOTH, 11900 W. 87th St. Pkwy., Suite 117, Lenexa, KS 66215, *ABA Section
Advisor*

EXECUTIVE DIRECTOR

JOHN A. SEBERT, 111 N. Wabash Ave., Suite 1010, Chicago, IL 60602, *Executive Director*

Copies of this Act may be obtained from:

NATIONAL CONFERENCE OF COMMISSIONERS

ON UNIFORM STATE LAWS

111 N. Wabash Ave., Suite 1010

Chicago, Illinois 60602

312/450-6600

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AMENDMENTS TO UNIFORM INTERSTATE FAMILY SUPPORT ACT (2001)

REPORTER'S NOTE

The series of uniform acts dealing with interstate cases involving establishment, enforcement, and modification of child-support and spousal-support orders have constituted a slowly evolving process from 1950 to date. In relatively recent times, international support orders have become more common, but mostly ignored. In fact, the attention paid to issues involving foreign support orders was short of minimal, at best, until the advent of UIFSA 2001 (which currently is in force in only a minority of the States). The 1996 version of UIFSA remains in force in the majority of States despite the fact that it is virtually silent on the issues. The irony is that the same federal act that tied the significant federal subsidy for child-support enforcement to the universal enactment of UIFSA 1996 authorized greatly increased federal activity for reaching bilateral agreements on child support enforcement with foreign countries.

The Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, hereafter "Convention," was signed by the United States at The Hague, Netherlands, on November 23, 2007. In context, this initial signature is a commitment by the executive branch of the federal government to make a good faith effort to bring the Convention into force. If the Senate gives its advice and consent to the Convention and it is signed by the President, the federal preemption of the issue via the treaty clause will be sufficient to accomplish that goal, U. S. Const. Art. VI., cl. 2. However, because this multilateral treaty is not self-executing, additional federal or state statutory enactments are necessary to enable the treaty and make it readily accessible to bench and bar. Because establishment, enforcement, and modification is basically a matter for state law, from the perspective of the Uniform Law Commission the vehicle for the acceptance of the new Convention must be a revision of UIFSA 2001. The new Hague Convention will reach a new level of integration with other countries.

UIFSA 2008 may supply some answers to questions the Convention leaves unresolved. This is particularly clear regarding modification of existing orders when the parties have moved from the issuing state or foreign country, or other factual circumstances have changed significantly.

The approach underlying this draft of yet another version of UIFSA anticipates a comprehensive revision of the Act in order to integrate the appropriate provisions of the new Convention into state law. The drafting principles are relatively simple, *i.e.*, Convention language is categorized as follows: (1) does not need to be included in State law because it speaks to the "Contracting State" that is to the United States and its "Central Authority"; (2) include the language or the principle of the Convention in the current text of UIFSA arts. 1 through 6, as appears applicable to international as well as domestic; (3) identify the text or principles in the Convention that relate only to international maintenance issues. For these, draft a stand-alone article for UIFSA to direct a "tribunal of this State" on the do's and don'ts unique to the Convention, e.g., reasons to refuse recognition of a foreign support order; and, (4) attempt to identify and resolve those Convention articles that cause problems. Many of the articles in the Convention do not direct action be taken by a tribunal or agency of a State. A number of the remaining provisions of the Convention that direct action are already covered by UIFSA, in

whole or part. Some of these trigger minimal amendments to the existing text.

A proposed final version labeled UIFSA 2008 is submitted here. The goal is to deal only with provisions that directly affect the law of “this State.” The draft concludes that less than one-half of the 65 articles in the Convention are appropriate to incorporate into an amended UIFSA. Perhaps there will be amendments necessary to other State law, e.g., regulation of the state support enforcement agency. Here, however, UIFSA 2008 deals only with international support issues and those interstate issues affected by those cases.

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

3 **ARTICLE 1**

4 **GENERAL PROVISIONS**

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

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

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

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

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

15 ~~(3)~~ (4) “Duty of support” means an obligation imposed or imposable by law to provide
16 support for a child, spouse, or former spouse, including an unsatisfied obligation to provide
17 support.

18 (5) “Foreign country” means a country, including a political subdivision thereof, other
19 than the United States or a State that under its law authorizes the issuance of support orders and:

20 (A) which has been declared under the law of the United States to be a foreign
21 reciprocating country;

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

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

4 (D) in which the Convention is in force with respect to the United States.

5 (6) “Foreign support order” means a support order by a foreign tribunal.

6 (7) “Foreign tribunal” means a court, administrative agency, or quasi-judicial entity of a
7 foreign country authorized to establish, enforce, or modify support orders or to determine
8 parentage of a child. The term includes a competent authority in a proceeding subject to [Article]
9 7, which may be a judicial or administrative authority in a proceeding in a foreign country.

10 ~~(4)~~ (8) “Home State state” means the State or foreign country in which a child lived with
11 a parent or a person acting as parent for at least six consecutive months immediately preceding
12 the time of filing of a [petition] or comparable pleading for support and, if a child is less than six
13 months old, the State or foreign country in which the child lived from birth with any of them. A
14 period of temporary absence of any of them is counted as part of the six-month or other period.

15 ~~(5)~~ (9) “Income” includes earnings or other periodic entitlements to money from any
16 source and any other property subject to withholding for support under the law of this State.

17 ~~(6)~~ (10) “Income-withholding order” means an order or other legal process directed to an
18 obligor’s [employer] [or other debtor], as defined by [the income-withholding law of this State],
19 to withhold support from the income of the obligor.

20 ~~(7) “Initiating State means a State from which a proceeding is forwarded or in which a~~
21 ~~proceeding is filed for forwarding to a responding State under this [Act] or a law or procedure~~
22 ~~substantially similar to this [Act].~~

23 ~~(8)~~ (11) “Initiating tribunal” means the authorized tribunal of a State or foreign country in

~~an initiating State~~ from which a proceeding is forwarded or in which a proceeding is filed for forwarding to another State or foreign country.

(12) “Issuing foreign country” means the country in which a tribunal issues a support order or judgment determining parentage.

~~(9)~~ (13) “Issuing State” means the State in which a tribunal issues a support order or renders a judgment determining parentage.

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

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

~~(12)~~ (16) “Obligee” means:

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

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

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

(D) an individual who, or a person other than an individual that, is a creditor in a proceeding subject to [Article] 7.

~~(13)~~ (17) “Obligor” means an individual, or the estate of a decedent:

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

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

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

4 (D) who is a debtor in a proceeding subject to [Article] 7.

5 ~~(14)~~ (18) “Person” means an individual, corporation, business trust, estate, trust,
6 partnership, limited liability company, association, joint venture, public corporation,
7 government; or governmental subdivision, agency, or instrumentality, ~~public corporation~~ or any
8 other legal or commercial entity.

9 ~~(15)~~ (19) “Record” means information that is inscribed on a tangible medium or that is
10 stored in an electronic or other medium and is retrievable in perceivable form.

11 ~~(16)~~ (20) “Register” means to [record; file] in a tribunal of this State a support order or
12 judgment determining parentage issued in another State or foreign country ~~in the appropriate~~
13 ~~location for the recording or filing of foreign judgments generally or foreign support orders~~
14 ~~specifically~~.

15 ~~(17)~~ (21) “Registering tribunal” means a tribunal in which a support order or judgment
16 determining parentage is registered.

17 ~~(18)~~ (22) “Responding State” means a State in which a proceeding is filed or to which a
18 proceeding is forwarded for filing from ~~an initiating~~ another State or foreign country ~~under this~~
19 ~~[Act] or a law or procedure substantially similar to this [Act]~~.

20 ~~(19)~~ (23) “Responding tribunal” means the authorized tribunal in a responding State or
21 foreign country.

22 ~~(20)~~ (24) “Spousal-support order” means a support order for a spouse or former spouse of
23 the obligor.

1 ~~(24)~~ (25) “State” means a State of the United States, the District of Columbia, Puerto
2 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
3 jurisdiction of the United States. The term includes: ~~(A)~~ an Indian tribe; and

4 ~~(B) a foreign country or political subdivision that:~~

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

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

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

11 ~~(22)~~ (26) “Support enforcement agency” means a public official or agency authorized to
12 seek:

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

14 (B) seek establishment or modification of child support;

15 (C) request determination of parentage of a child;

16 (D) ~~location of~~ attempt to locate obligors or their assets; or

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

18 ~~(23)~~ (27) “Support order” means a judgment, decree, order, decision, or directive,
19 whether temporary, final, or subject to modification, issued ~~by a tribunal in a another of State or~~
20 foreign country for the benefit of a child, a spouse, or a former spouse, which provides for
21 monetary support, health care, arrearages, retroactive support, or reimbursement for financial
22 assistance provided to an individual obligee in place of child support. ~~and It~~ may include related
23 costs and fees, interest, income withholding, automatic adjustment, attorney’s fees, and other

1 relief.

2 (24) (28) “Tribunal” means a court, administrative agency, or quasi-judicial entity
3 authorized to establish, enforce, or modify support orders or to determine parentage.

4 **REPORTER’S NOTE**

5
6 The proposed addition of definitions of “foreign country” and “foreign tribunal,” are to
7 be read in conjunction with the prior definition of “State,” *infra*, which under certain
8 circumstances declared a foreign country or political subdivision to be a “State.” Defining a
9 foreign country or a political subdivision thereof, e.g., a Canadian province, as a “State” may be
10 traced back to 1968, where this approach first appeared in the Revised Uniform Reciprocal
11 Enforcement of Support Act, a.k.a. RURESA. It is doubtful that anyone thinks a foreign support
12 order is entitled to Full Faith and Credit. Indeed, such orders of the sister states were only
13 relatively recently accorded that treatment after congressional action in 1994. Thus,
14 constitutional analysis is not required; only state statutory issues are involved. Moreover,
15 asserting that a foreign support order be treated “equally” to a sister state order could well result
16 in a manifestly unfair decision.

17
18 The term “foreign judgment” is used ambiguously only once in UIFSA; in a context,
19 clearly “out-of-state” is intended, rather than “out-of-country.” If an international construction is
20 intended, the text in UIFSA is “foreign country or political subdivision.” The definitions in
21 UIFSA 2008 are fine tuned to avoid ambiguity in order to insure that “foreign” is used strictly to
22 identify international proceedings and orders.

23
24 The amended definition of “State” eliminates the fiction that a foreign country can be a
25 U.S. State, and clarifies and implements the purpose of the Act to enforce an international
26 support order under state law. In addition, in several provisions of UIFSA the term “State”
27 clearly is intended to refer only to a State of the United States.

28 29 **SECTION 103. STATE TRIBUNAL OF STATE AND SUPPORT** 30 **ENFORCEMENT AGENCY.**

31 (a) The [court, administrative agency, quasi-judicial entity, or combination] [is the
32 tribunal] [are the tribunals] of this State.

33 (b) The [public official, governmental agency, or private agency, or combination] [is]
34 [are] the support enforcement [agency] [agencies] of this State.

1 **SECTION 104. REMEDIES CUMULATIVE.**

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

5 (b) This [Act] does not:

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

8 (2) grant a tribunal of this State jurisdiction to render judgment or issue an order
9 relating to [child custody or visitation] in a proceeding under this [Act].

10 **SECTION 105. APPLICATION OF [ACT] TO RESIDENT OF FOREIGN**
11 **COUNTRY AND FOREIGN SUPPORT PROCEEDING.**

12 (a) A tribunal of this State shall apply [Articles] 1 through 6 and, as applicable, [Article]
13 7, to a support proceeding involving:

14 (1) a foreign support order;

15 (2) a foreign tribunal; or

16 (3) an obligee, obligor, or child residing in a foreign country.

17 (b) A tribunal of this State that is requested to recognize and enforce a support order on
18 the basis of comity may apply the procedural and substantive provisions of [Articles] 1 through
19 6.

20 (c) [Article] 7 applies only to a support proceeding subject to the Convention. In such a
21 proceeding, if a provision of [Article] 7 is inconsistent with a provision of [Articles] 1 through 6,
22 [Article] 7 controls.

ARTICLE 2

JURISDICTION

SECTION 201. BASES FOR JURISDICTION OVER NONRESIDENT.

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

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

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

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

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

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

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

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

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

(b) The bases of personal jurisdiction set forth in subsection (a) or in any other law of this

1 State may not be used to acquire personal jurisdiction for a tribunal of ~~the~~ this State to modify a
2 child-support order of another State unless the requirements of Section 611 ~~or 615~~ are met, or, in
3 the case of a foreign support order, unless the requirements of Section 615 are met.

4 **REPORTER'S NOTE**

5
6 Section 201(b) solidifies the concepts of personal jurisdiction and its progeny, continuing
7 jurisdiction and controlling orders, for tribunals of the United States. The long-arm provisions
8 were originally written with only domestic cases in mind. If the tribunal of this State, or of
9 another State, had personal jurisdiction over an individual residing in another State, the
10 application of local law is entitled to recognition and enforcement, Full Faith and Credit for
11 Child support orders Act, a.k.a. FFCCSOA, 28 USC 1738B.

12
13 As indicated in Section 708, *infra*, virtually all foreign countries recognize and enforce a
14 child-support order based on the residence of the obligee or the child. The U.S. requirement of
15 personal jurisdiction over the obligor is generally regarded abroad as an idiosyncratic error.
16 Nonetheless, the new Convention requires recognition of U.S. orders based on long-arm
17 jurisdiction asserted over the obligor, a.k.a. "debtor." Of course, in such cases the U.S. tribunal
18 also has jurisdiction over the obligee, a.k.a. "creditor." From the perspective of a foreign
19 tribunal, such an order should be considered valid even though the U.S. tribunal requires a
20 personal nexus between the parties and the State tribunal as described in this section. Luckily,
21 the requirement of personal jurisdiction virtually ensures that no problem of jurisdiction will
22 arise on the international front.

23
24 **SECTION 202. DURATION OF PERSONAL JURISDICTION.** Personal
25 jurisdiction acquired by a tribunal of this State in a proceeding under this [Act] or other law of
26 this State relating to a support order continues as long as a tribunal of this State has continuing,
27 exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as
28 provided by Sections 205, 206, and 211.

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

1 **SECTION 204. SIMULTANEOUS PROCEEDINGS.**

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

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

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

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

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

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

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

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

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

23 (a) A tribunal of this State that has issued a child-support order consistent with the law of

1 this State has and shall exercise continuing, exclusive jurisdiction to modify its child-support
2 order if the order is the controlling order and:

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

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

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

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

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

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

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

23 (e) A temporary support order issued ex parte or pending resolution of a jurisdictional

1 conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

REPORTER'S NOTE

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

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

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

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

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

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

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

2 **REPORTER'S NOTE**

3
4 The amendments to Section 211 continue the decision made first in UIFSA 1992 that
5 declined modification of a spousal support order. The bases of this decision are explained in the
6 UIFSA 2001 Comment as follows:
7

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

1 **ARTICLE 3**

2 **CIVIL PROVISIONS OF GENERAL APPLICATION**

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

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

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

11 **REPORTER'S NOTE**

12
13 The revised language reflects actual practice under UIFSA. The statement that the filing
14 State may or must have personal jurisdiction over the respondent is axiomatic at best.
15

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

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

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

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

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

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

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

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

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

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

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

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

22 (1) ~~issue~~ establish or enforce a support order, modify a child-support order,
23 determine the controlling child-support order, or determine parentage of a child;

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

3 (3) order income withholding;

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

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

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

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

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

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

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

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

16 (12) grant any other available remedy.

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

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

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

1 any.

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

6 **REPORTER'S NOTE**

7
8 See Convention art. 19.
9

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

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

15 **Alternative A**

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

18 **Alternative B**

19 (a) In a proceeding under this [Act], a support enforcement agency of this State, upon
20 request, shall provide services to a [petitioner] residing in the United States or a State, and may
21 provide services to a [petitioner] who is an individual residing outside the United States.]

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

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

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

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

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

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

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

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

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

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

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

21 (e) A support enforcement agency of this State shall [issue or] request a tribunal of this
22 State to issue a child-support order and an income-withholding order that redirect payment of

1 current support, arrears, and interest if requested to do so by a support enforcement agency of
2 another State pursuant to Section 319 of the Uniform Interstate Family Support Act.

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

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

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

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

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

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

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

19 (b) The state information agency shall:

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

23 (2) maintain a register of names and addresses of tribunals and support

1 enforcement agencies received from other States;

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

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

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

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

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

4 **SECTION 312. NONDISCLOSURE OF INFORMATION ~~IN EXCEPTIONAL~~**
5 **CIRCUMSTANCES.**

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

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

14 **REPORTER'S NOTE**

15
16 See Convention arts. 38, 39, & 40

17
18 The process of nondisclosure established in § 312 contemplates nondisclosure on the
19 basis of an affidavit; disclosure may be ordered by a tribunal only after the fact when the other
20 party requests disclosure and the tribunal approves the request.
21

22 **SECTION 313. COSTS AND FEES.**

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

24 (b) If an obligee prevails, a responding tribunal of this State may assess against an obligor
25 filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable
26 expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees,
27 costs, or expenses against the obligee or the support enforcement agency of either the initiating

1 or responding State or foreign country, except as provided by other law. Attorney's fees may be
2 taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the
3 attorney's own name. Payment of support owed to the obligee has priority over fees, costs and
4 expenses.

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

9 **REPORTER'S NOTE**

10
11 See Convention arts. 14 & 43
12

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

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

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

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

23 **SECTION 315. NONPARENTAGE AS DEFENSE.** A party whose parentage of a
24 child has been previously determined by or pursuant to law may not plead nonparentage as a

1 defense to a proceeding under this [Act].

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

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

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

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

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

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

20 (f) In a proceeding under this [Act], a tribunal of this State shall permit a party or witness
21 residing ~~in another~~ outside this State to be deposed or to testify under penalty of perjury by
22 telephone, audiovisual means, or other electronic means at a designated tribunal or other location

1 ~~in that State~~. A tribunal of this State shall cooperate with other tribunals ~~of other States~~ in
2 designating an appropriate location for the deposition or testimony.

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

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

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

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

12 **REPORTER'S NOTE**

13
14 See Convention art. 29
15

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

23 **REPORTER'S NOTE**

24
25 For §§ 316-318, do we want "outside this State" or "another state or foreign country."
26 My notes say the former, my sense of consistency says the latter.

1
2 **SECTION 318. ASSISTANCE WITH DISCOVERY.** A tribunal of this state may:

3 (1) request a tribunal ~~of another~~ outside this State to assist in obtaining discovery; and

4 (2) upon request, compel a person over whom it has jurisdiction to respond to a discovery
5 order issued by a tribunal ~~of another~~ outside this State another State or foreign country.

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

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

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

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

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

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

22 **REPORTER'S NOTE**

23
24 This section is designed to reduce the interval between making a payment and receiving
25 the payment by redirecting it to the obligee's State.
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SECTION 401. [PETITION] TO ESTABLISH SUPPORT ORDER.

- (1) the individual seeking the order resides ~~in another~~ outside this State; or
- (2) the support enforcement agency seeking the order is located ~~in another~~ outside this State.

- (1) a presumed father of the child;
- (2) petitioning to have his paternity adjudicated;
- (3) identified as the father of the child through genetic testing;
- (4) an alleged father who has declined to submit to genetic testing;
- (5) shown by clear and convincing evidence to be the father of the child;
- (6) an acknowledged father as provided by [applicable state law];
- (7) the mother of the child; or
- (8) an individual who has been ordered to pay child support in a previous

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to Section 305.

1 **REPORTER'S NOTE**

2
3 See Convention art. 37

4
5 A fundamental principle of U.S. jurisprudence is that our courts are open to all litigants
6 with a valid cause of action. Although stating the obvious may go unsaid, clearly articulating the
7 principle can do no harm. Further, ever since the first iteration of UIFSA in 1992, the Uniform
8 Law Commission, nee NCCUSL, has jealously guarded the prerogative of a litigant to employ
9 “private counsel” to enforce support orders, see UIFSA § 309. That principle undoubtedly will
10 continue to be a focal point of the ULC.
11

12 **SECTION ~~701~~ 402. PROCEEDING TO DETERMINE PARENTAGE.** A tribunal
13 of this State authorized to determine parentage of a child may serve as a responding tribunal in a
14 proceeding to determine parentage brought under this [Act] or a law or procedure substantially
15 similar to this [Act].

16 **REPORTER'S NOTE**

17
18 This is a good place to move Section 701 of UIFSA (2001).
19

1 **ARTICLE 5**

2 **ENFORCEMENT OF SUPPORT ORDER OF ANOTHER**

3 **STATE WITHOUT REGISTRATION**

4 **REPORTER'S NOTE**

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

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

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

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

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

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

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

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

26 (2) the person designated to receive payments and the address to which the

1 payments are to be forwarded;

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

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

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

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

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

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

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

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

21 **REPORTER'S NOTE**
22

23 In addition to income withholding orders issued by tribunals, State support enforcement
24 agencies issue income withholding orders to enforce foreign child-support orders.
25

1 **SECTION 504. IMMUNITY FROM CIVIL LIABILITY.** An employer ~~who~~ that
2 complies with an income-withholding order issued in another State in accordance with this
3 [article] is not subject to civil liability to an individual or agency with regard to the employer's
4 withholding of child support from the obligor's income.

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

9 **SECTION 506. CONTEST BY OBLIGOR.**

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

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

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

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

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

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

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

1 this State.

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

8 **REPORTER'S NOTE**
9

10 If a support enforcement agency receives a request for services from an individual
11 accompanied by a copy of a foreign support order, the agency should be able to commence
12 administrative enforcement if available under applicable state law. In administratively ordering
13 withholding for a foreign support order, agency personnel need to review the directives to a
14 tribunal of this State regarding conversion of foreign currency under Sections 304, 305 and 307.
15

1 **ARTICLE 6**

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

3 **PART 1**

4 **REGISTRATION FOR ENFORCEMENT OF SUPPORT ORDER**

5 **REPORTER'S NOTE**

6
7 With selective editing, the registration and enforcement provisions in [Article] 6, Part 1,
8 will conform to the provisions of the Convention. The terms of Sections 601, 609, and [Article] 7
9 will suffice to direct international support orders into the proper channels.
10

11 **SECTION 601. REGISTRATION OF ORDER FOR ENFORCEMENT.** A support
12 order or income-withholding order issued in by a tribunal of another state or a foreign country
13 may be registered in this state for enforcement.

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

15 (a) Except for an order subject to [Article] 7, A a support order or income-withholding
16 order of another State or a foreign support order may be registered in this State by sending the
17 following records ~~and information~~ to the [appropriate tribunal] in this State:

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

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

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

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

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

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

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

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

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

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

20 REPORTER'S NOTE

21
22 The list of documents comprising the required record in subsection (a) conflicts to a
23 measurable degree with Convention arts. 11(3) and 25. Millions of domestic cases have been
24 processed under the procedure specified in this section, and approximately less than one-tenth of
25 one percent (0.001%) have involved a foreign support order. To amend this section to conform to
26 the Convention would be the perfect illustration of the tail wagging the dog—or perhaps the tip
27 of the tail.

1

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

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

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

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

10 **SECTION 604. CHOICE OF LAW.**

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

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

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

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

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

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

23 (d) After a tribunal of this or another State determines which is the controlling order and

1 issues an order consolidating arrears, if any, a tribunal of this State shall prospectively apply the
2 law of the State or foreign country issuing the controlling order, including its law on interest on
3 arrears, on current and future support, and on consolidated arrears.

4 **PART 2**

5 **CONTEST OF VALIDITY OR ENFORCEMENT**

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

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

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

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

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

16 (A) the registered order is subject to Section 707; or

17 (B) the nonregistering party resides outside of the United States or a State,
18 in which case a hearing to contest the order must be requested within 60 days after notice.

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

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

23 (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 party 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 support
11 enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to
12 [the income-withholding law of this State].

13 **REPORTER'S NOTE**

14
15 See Convention art. 23

16
17 The requirement that a notice to contest must be filed within [20] days has been retained
18 (brackets indicate that the length of time is suggested, not fixed). On the other hand, the
19 Convention requires a fixed 30 days, and a fixed 60 days if the respondent resides in a foreign
20 country, see Convention art. 23.
21

22 **SECTION 606. PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT** 23 **OF REGISTERED ORDER.**

24 (a) A nonregistering party seeking to contest the validity or enforcement of a registered
25 support order in this State shall request a hearing ~~within [20] days after notice of the registration~~
26 in accordance with the notice provided in Section 605. The nonregistering party may seek to
27 vacate the registration, to assert any defense to an allegation of noncompliance with the

1 registered order, or to contest the remedies being sought or the amount of any alleged arrearages
2 pursuant to Section 607.

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

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

8 **REPORTER'S NOTE**

9
10 See Convention arts. 20, 22, and preceding comment.

11
12 **SECTION 607. CONTEST OF REGISTRATION OR ENFORCEMENT.**

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

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

16 (2) the order was obtained by fraud;

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

18 (4) the issuing tribunal has stayed the order pending appeal;

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

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

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

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

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

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

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

11 **PART 3**

12 **REGISTRATION AND MODIFICATION OF CHILD-SUPPORT ORDER OF**

13 **ANOTHER STATE**

14 **REPORTER'S NOTE**

15
16 In drafting UIFSA 1992 critical choices were made regarding modification of an existing
17 child-support order when all parties and the child had left the issuing State. First, the original
18 order was to remain in force as the controlling order until modified. Second, the issue was what
19 to do when the parties resided in different States. The deciding factor centered on the undesirable
20 effect of ambush jurisdiction. The drafting committee objected to the possibility that the parties
21 would vie to strike first to obtain a home town advantage. Arguably this could discourage
22 continued contact with the children by the obligor for fear of a lawsuit in a distant forum. Thus,
23 modification in a forum with long-arm personal jurisdiction over both parties was to be avoided.
24 Indeed, repeated modification suits were to be avoided. Ultimately, an alternative was produced,
25 which has come to be known as "the movant must play an away game," as exemplified in
26 Section 611.

27
28 The requirements of Section 611, and the prohibition against assertion of long-arm
29 jurisdiction in the international context makes much less sense. Only because the United States is
30 wedded to personal jurisdiction over the individual parties, rather than the child-based
31 jurisdiction found virtually everywhere else, does this issue arise. Thus, a foreign country
32 typically regards a support order to be one of the country. In a few recognized instances orders
33 are made by a political subdivision, e.g., Canadian provinces, also based on the obligee's

1 residence. Consideration was given to labeling a support order of a State as an order of the
2 United States. Conforming modification to the general principles of state-control of the subject
3 matter through UIFSA, with an exception for appropriate assertion of long-arm jurisdiction,
4 seems the more conservative approach. Of course, the movant may also choose to seek
5 modification in the other party's place of residence.
6

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

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

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

24 **SECTION 611. MODIFICATION OF CHILD-SUPPORT ORDER OF ANOTHER**
25 **STATE.**

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

29 (1) the following requirements are met:

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

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

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

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

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

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

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

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

4 (f) Without regard to the restrictions on modification of a child-support order stated in
5 Section 201(b) and this section, a tribunal of this State retains jurisdiction to modify an order
6 issued by a tribunal of this State if:

7 (1) one party resides in another State; and

8 (2) the other party resides in a country other than the United States.

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

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

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

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

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

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

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

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

4 **SECTION 614. NOTICE TO ISSUING TRIBUNAL OF MODIFICATION.** Within
5 [30] days after issuance of a modified child-support order, the party obtaining the modification
6 shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive
7 jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order
8 has been registered. A party who obtains the order and fails to file a certified copy is subject to
9 appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file
10 does not affect the validity or enforceability of the modified order of the new tribunal having
11 continuing, exclusive jurisdiction.

12 **PART 4**

13 **REGISTRATION AND MODIFICATION OF FOREIGN CHILD-SUPPORT ORDER**

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

16 (a) Except as otherwise provided in Section 711, If if a foreign country ~~or political~~
17 ~~subdivision that is a State will not or may not modify its order~~ lacks or refuses to exercise
18 jurisdiction to modify its child-support order pursuant to its laws, a tribunal of this State may
19 assume jurisdiction to modify the child-support order and bind all individuals subject to the
20 personal jurisdiction of the tribunal whether or not the consent to modification of a child-support
21 order otherwise required of the individual pursuant to Section 611 has been given or whether the
22 individual seeking modification is a resident of this State or of the foreign country ~~or political~~
23 ~~subdivision~~.

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

3 **REPORTER'S NOTE**
4

5 This revision of UIFSA § 615 is consistent with Convention art. 18(2)(c), which limits
6 proceedings initiated by the obligor when the obligee remains in the issuing state. The
7 contemplation here is that the obligee will seek modification, but will be unable to obtain it
8 because the obligor will not appear to defend or the obligee must appear in a distant forum.
9

10 **SECTION 616. PROCEDURE TO REGISTER CHILD-SUPPORT ORDER OF**
11 **FOREIGN COUNTRY FOR MODIFICATION.** A party or support enforcement agency
12 seeking to modify, or to modify and enforce, a foreign child-support order may register that
13 order in this State as provided in Sections 601 through 608 if the order has not been registered. A
14 [petition] for modification may be filed at the same time as a request for registration, or at
15 another time. The [petition] must specify the grounds for modification.
16

1 ARTICLE 7

2 DETERMINATION OF PARENTAGE

3 SUPPORT PROCEEDING SUBJECT TO CONVENTION

4 REPORTER'S NOTE

5
6 As originally presented to the Uniform Law Conference in UIFSA 1992, [Article] 7
7 contained a wide variety of substantive and procedural sections regarding parentage actions. All
8 those provisions were rejected in floor debate except the single Section 701, which is now shown
9 as deleted below and moved to Section 402. This freed [Article] 7 to contain special rules for
10 orders and proceedings of the Convention that do not conform to UIFSA.

11
12 In drafting a new iteration of UIFSA, an important fact must be kept in mind. If and when
13 two-thirds of the U.S. Senate gives advice and its consent to the new Convention, the President
14 signs, and the appropriate documents are deposited in The Hague, NL, the Convention will be
15 finally ratified and become the “law of the land.” However, because the treaty is not self-
16 executing, it will require either additional federal or State law to become fully effective. Another
17 crucial fact is that establishment, enforcement, and modification of child-support and spousal
18 support orders historically have been matters for state tribunals. Although the existence of
19 substantial federal subsidies has led to a cooperative effort between state and federal
20 governments, the mode for establishment, enforcement, and modification remains with the
21 judicial and administrative entities of the States.

22
23 In any event, the language of the Convention is what it is, and is not subject to domestic
24 amendment. The choice for the U.S. Senate is to accept all or none of the provisions of the
25 Convention, other than those few that are subject to reservation by individual Contracting States.
26 However, there is ample precedent for the Senate to attach significant conditions to be met
27 before its consent is operative. For bench and bar in the States to function efficiently, a
28 translation of HccH treaty-English into UIFSA language is not only permissible, but, in my
29 opinion, is vital to facilitate implementation of the Convention at ground level. This conclusion
30 has been acknowledged by William Duncan, Deputy Secretary General, HccH Secretariat.

31
32 Gathering the provisions of the Convention applicable to a proceeding involving a
33 foreign country in [Article] 7, if not clearly already covered in UIFSA, will eliminate the
34 necessity to pick and choose when to insert or delete existing text throughout the Act. Although
35 chapter 2 is controlling insofar as establishing personal jurisdiction over a party when required in
36 a case involving a foreign country, the provisions to accomplish this do not need to be amended
37 in this chapter.

38
39 UIFSA should not remain passive regarding the effect of a support order issued by a
40 foreign tribunal entitled to enforcement by a “tribunal of this State.” For example, although the
41 terms “modify” and “modification” are much employed in the text of the draft Convention (17
42 times in all), many questions about that process go unanswered in the Convention. UIFSA may
43 fill these gaps. Moreover, many of the provisions in Convention chs. VI to IX pose questions

1 about which of those to include in UIFSA. For example, Convention arts. 26 and 27 have been
2 included in rewritten form even though UIFSA already contains the principles expressed. This
3 illustrates the persuasive influence exerted by UIFSA 2001 to influence the Hague negotiations.
4 This effect is even clearer in Convention arts. 32 through 36.
5

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

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

16 **REPORTER'S NOTE**

17
18 The original Section 701 has been moved to Section 402, *supra*.
19

20 **SECTION 701. DEFINITIONS.** In this [article]:

21 (1) "Application" means a request under the Convention by an obligee, obligor, or on
22 behalf of a child, made through a central authority for assistance from another central authority.

23 (2) "Central authority" means the entity designated by a country to perform the functions
24 specified in the Convention.

25 (3) "Direct request" means a [petition] filed by an individual in a tribunal of this State in
26 a proceeding involving an obligee, obligor, or child residing outside the United States or a State.

27 (4) "Foreign central authority" means the entity designated by a foreign country in which
28 the Convention is in force with respect to the United States to perform the functions specified in
29 the Convention.

1 (5) “Foreign support agreement” means an agreement for support in a record, also known
2 as a maintenance arrangement in the Convention, that:

3 (A) is enforceable as a support order in the country of origin;

4 (B) has been formally drawn up or registered or has been authenticated by, or
5 concluded, registered, or filed with a foreign tribunal; and

6 (C) may be reviewed and modified by a foreign tribunal.

7 (6) “Foreign support order” means an order of a tribunal of a foreign country in which the
8 Convention is in force with respect to the United States.

9 (7) “United States central authority” means the Secretary of the United States Department
10 of Health and Human Services.

11 **SECTION 702. APPLICABILITY.** This [Article] applies only to a support proceeding
12 involving a foreign country in which the Convention is in force with respect to the United States.
13 In such a proceeding, if a provision of this [Article] is inconsistent with a provision in [Articles]
14 1 through 6, [Article] controls.

15 **REPORTER’S NOTE**

16 See Convention arts. 1 and 2.

17
18
19 **SECTION 703. RELATIONSHIP OF [GOVERNMENTAL ENTITY] TO UNITED**
20 **STATES CENTRAL AUTHORITY.** The [governmental entity] of this State recognized as the
21 agency designated by the United States central authority to perform specific functions under the
22 Convention.

23 **REPORTER’S NOTE**

24 See Convention arts. 4-17

1 **SECTION 704. INITIATION BY [GOVERNMENTAL ENTITY] OF SUPPORT**
2 **PROCEEDING SUBJECT TO CONVENTION.**

3 (a) In a proceeding subject to the Convention, the [governmental entity] of this State
4 shall:

5 (1) transmit and receive applications; and
6 (2) initiate or facilitate the institution of a proceeding regarding an application in a
7 tribunal of this State.

8 (b) The following support proceedings are available to an obligee under the Convention:

9 (1) recognition or recognition and enforcement of a foreign support order;
10 (2) enforcement of a support order issued or recognized in this State;
11 (3) establishment of a support order if there is no existing order, including, where
12 necessary, determination of parentage;
13 (4) establishment of a support order if recognition of a foreign support order is not
14 possible or is refused because of the lack of a basis for recognition and enforcement under
15 Section 708 or on grounds specified in Section 709(2) or (5);
16 (5) modification of a support order made by a tribunal of this State; and
17 (6) modification of an foreign support order.

18 (c) The following support proceedings are available under the Convention to an obligor
19 against whom there is an existing support order:

20 (1) recognition of an order suspending or limiting enforcement of an existing
21 support order of a tribunal of this State;
22 (2) modification of a support order of a tribunal of this State; and
23 (3) modification of a support order of a tribunal of another State or foreign

1 country.

2 (d) A tribunal of this State may not require security, bond, or deposit, however described,
3 to guarantee the payment of costs and expenses in proceedings under the Convention.

4 **SECTION 705. DIRECT REQUEST.**

5 (a) A [petitioner] may file a direct request in a tribunal of this State seeking the
6 establishment or modification of a support order or determination of parentage. In such a
7 proceeding, the law of this State applies.

8 (b) A [petitioner] may file a direct request in a tribunal of this State seeking the
9 recognition and enforcement of a support order or support agreement. In such a proceeding, the
10 provisions of Sections 706 through 712 apply.

11 (c) In a direct request for recognition and enforcement of a foreign support order or
12 agreement,

13 (1) no security, bond, or deposit shall be required to guarantee the payment of
14 costs and expenses related to the proceedings; and

15 (2) the obligee or obligor, who in the issuing country has benefited from free legal
16 assistance, shall be entitled to benefit, at least to the same extent, from any free legal assistance
17 provided for by the law of this State under the same circumstances.

18 (d) An individual filing directly to a tribunal will not receive assistance from the
19 [governmental entity].

20 (e) Nothing in this [Article] prevents the application of laws of this State that provide
21 simplified, more expeditious rules regarding a direct request for recognition and enforcement of
22 a foreign support order or support agreement.

1 **SECTION 706. REGISTRATION OF SUPPORT ORDER SUBJECT TO**
2 **CONVENTION.**

3 (a) Except as otherwise provided in this [Article], a party who is an individual or a
4 support enforcement agency seeking recognition of a foreign support order subject to the
5 Convention shall register the order in this State as provided in [Article] 6.

6 (b) Notwithstanding Sections 311 and 602, a request for registration of a foreign support
7 order subject to the Convention shall be accompanied by:

8 (1) a complete text of the support order, or an abstract or extract of the support
9 order drawn up by the issuing foreign tribunal, which may be in the form recommended by the
10 Hague Conference on Private International Law;

11 (2) a record stating that the support order is enforceable in the issuing country;

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

16 (4) if necessary, a record showing the amount of any arrears, and the date the
17 amount was calculated;

18 (5) if necessary, a record showing a requirement for automatic adjustment of the
19 amount of support, if any, and the information necessary to make the appropriate calculations;
20 and

21 (6) if necessary, a record showing the extent to which the applicant received free
22 legal assistance in the issuing country.

23 (c) A request for registration of a foreign support order may seek recognition and partial

1 enforcement of the order.

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

4 (e) The tribunal shall promptly notify the parties of the registration or the refusal to
5 register a foreign support order.

6 **REPORTER'S NOTE**

7
8 *See Convention art. 25, 32*
9

10 **SECTION 707. CONTEST OF VALIDITY OF FOREIGN SUPPORT ORDER**
11 **SUBJECT TO CONVENTION.**

12 (a) Except as otherwise provided in this [Article], Sections 605 through 608 apply to a
13 contest of the validity of a registered foreign support order subject to the Convention.

14 (b) A party contesting the recognition and enforcement of a registered foreign support
15 order subject to the Convention must file a contest within 30 days after notice of the registration
16 unless the contesting party does not reside in the United States or a State, in which case the
17 contest must be filed within 60 days after notice.

18 (c) A contest of a registered foreign support order may be based only on:

19 (1) the authenticity or integrity of any record transmitted in accordance with
20 Section 706;

21 (2) the lack of a basis for enforcement under Section 708;

22 (3) the grounds for refusing enforcement under Section 709; or

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

24 (d) In a contest of the validity of a registered foreign support order, a tribunal of this
25 State:

1 child-support order for the obligee if the application for recognition and enforcement was
2 received under Section 704(a).

3 (c) If a tribunal of this State may not recognize and enforce the whole of a foreign
4 support order, it shall enforce any severable part of the order. An application or direct request
5 may seek recognition and partial enforcement of a foreign support order.

6 **REPORTER'S NOTE**

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

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

18 **SECTION 709. REFUSAL OF RECOGNITION AND ENFORCEMENT OF**
19 **FOREIGN SUPPORT ORDER SUBJECT TO CONVENTION.** A tribunal of this state may
20 refuse recognition and enforcement of a foreign support order subject to the Convention if:

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

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

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

26 (4) the order is incompatible with a more recent support order issued between the same
27 parties and having the same purpose if the more recent support order is entitled to recognition
28 and enforcement in this State;

29 (5) in a case in which the respondent neither appeared nor was represented in the

1 proceeding in the issuing foreign country when the law of the country:

2 (A) provides for notice of proceedings, the respondent did not have proper notice
3 of the proceedings and an opportunity to be heard; or

4 (B) does not provide for notice of the proceedings, the respondent did not have
5 proper notice of the order and the opportunity to challenge or appeal it on fact and law; or

6 (6) the order was made in violation of Section 711.

7 **REPORTER'S NOTE**

8
9 *See Convention arts. 20, 22*
10

11 **SECTION 710. FOREIGN SUPPORT AGREEMENT SUBJECT TO**
12 **CONVENTION.**

13 (a) Except as provided in subsections (c) and (d), a tribunal of this State shall recognize
14 and enforce a foreign support agreement registered in this State.

15 (b) An application or direct request for recognition and enforcement of a foreign support
16 agreement shall be accompanied by:

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

18 (2) a record stating that the foreign support agreement is enforceable as a decision
19 in the issuing country.

20 (c) A tribunal of this State may refuse to register a foreign support agreement only if
21 registration is manifestly incompatible with public policy.

22 (d) A tribunal of this State may refuse recognition and enforcement of a foreign support
23 agreement if it finds:

24 (1) recognition and enforcement of the agreement is manifestly incompatible with

1 public policy;

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

3 (3) the agreement is incompatible with a support order issued between the same
4 parties and having the same purpose, either in this State, another State, or a foreign country if the
5 support order is entitled to recognition in this State; or

6 (4) the record submitted under subsection (b) lacks authenticity or integrity.

7 (e) A proceeding for recognition and enforcement of a foreign support agreement shall be
8 suspended during the pendency of a challenge to the agreement before a tribunal of another State
9 or foreign country.

10 **REPORTER'S NOTE**

11
12 See Convention arts. 3 & 30
13

14 **SECTION 711. MODIFICATION OF FOREIGN CHILD-SUPPORT ORDER**

15 **SUBJECT TO CONVENTION.**

16 (a) A tribunal of this State may not modify a foreign child-support order if the obligee
17 remains a resident of the foreign country where the support order was issued unless:

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

21 (2) the foreign tribunal lacks or refuses to exercise jurisdiction to modify its
22 support order or issue a new support order.

23 (b) If a tribunal of this State not modify the foreign child-support order because the order
24 may not be recognized in this State, the provisions of Section 708 apply.

1 **REPORTER’S NOTE**

2
3 See Convention art. 18.

4
5 The term “modify” and its variants is used 17 times in the text of the Convention, but
6 many questions remain unanswered. Ultimately UIFSA may legitimately fill these gaps.
7

8 **SECTION 712. JURISDICTION TO MODIFY SPOUSAL-SUPPORT ORDER OF**
9 **FOREIGN COUNTRY.** A tribunal of this State with personal jurisdiction over the parties may
10 modify a spousal-support order of a foreign tribunal if :

11 (1) the foreign tribunal lacks or refuses to exercise jurisdiction to modify its order
12 pursuant to its laws.

13 (2) there is agreement in writing between the parties to the jurisdiction of the tribunal of
14 this State; or

15 (3) the parties submit to the jurisdiction of the tribunal of this State expressly or by
16 defending on the merits without objecting.

17 **REPORTER’S NOTE**

18
19 See Convention art. 18.

20
21 The term “modify” and its variants is used 17 times in the text of the Convention, but
22 many questions remain unanswered. Ultimately UIFSA may legitimately fill these gaps.
23

1 **ARTICLE 8**

2 **INTERSTATE RENDITION**

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

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

6 (b) The governor of this State may:

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

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

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

16 **SECTION 802. CONDITIONS OF RENDITION.**

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

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

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

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

10

1 **ARTICLE 9**

2 **MISCELLANEOUS PROVISIONS**

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

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

10 **SECTION 903. REPEALS.** The following acts and parts of acts are hereby repealed:

11 (1)

12 (2)

13 (3)

14 **SECTION 904. EFFECTIVE DATE.** This [Act] takes effect.....