

ASSEMBLY, No. 261

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman BATEMAN

1 AN ACT concerning support proceedings, supplementing Title 2A of
2 the New Jersey Statutes and repealing P.L.1981, c.243 and sections
3 15 and 16 of P.L.1985, c.278.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 ARTICLE 1
9 GENERAL PROVISIONS
10

11 1. As used in this act:

12 "Child" means an individual, whether over or under the age of
13 majority, who is or is alleged to be owed a duty of support by the
14 individual's parent or who is or is alleged to be the beneficiary of a
15 support order directed to the parent.

16 "Child support order" means a support order for a child, including
17 a child who has attained the age of majority under the law of the
18 issuing state.

19 "Duty of support" means an obligation imposed or imposable by law
20 to provide support for a child, spouse, or former spouse, including an
21 unsatisfied obligation to provide support.

22 "Home state" means the state in which a child lived with a parent
23 or a person acting as parent for at least six consecutive months
24 immediately preceding the time of filing of a complaint or comparable
25 pleading for support and, if a child is less than six months old, the state
26 in which the child lived from birth with any of them. A period of
27 temporary absence of any of them is counted as part of the six-month
28 or other period.

29 "Income" includes earnings or other periodic entitlements to money
30 from any source and any other property subject to withholding for
31 support under the law of this State.

32 "Income-withholding order" means an order or other legal process
33 directed to an obligor's employer or other debtor, as defined by the
34 "New Jersey Support Enforcement Act," P.L.1981, c.417
35 (C.2A:17-56.7 et seq.) and the "Support Enforcement Act of 1985,"

1 P.L.1985, c.278 (C.2A:17-56.17 et seq.), to withhold support from the
2 income of the obligor.

3 "Initiating state" means a state in which a proceeding under this act
4 or a law substantially similar to this act, the Uniform Reciprocal
5 Enforcement of Support Act, or the Revised Uniform Reciprocal
6 Enforcement of Support Act is filed for forwarding to a responding
7 state.

8 "Initiating tribunal" means the authorized tribunal in an initiating
9 state.

10 "Issuing state" means the state in which a tribunal issues a support
11 order or renders a judgment determining parentage.

12 "Issuing tribunal" means the tribunal that issues a support order or
13 renders a judgment determining parentage.

14 "Law" includes decisional and statutory law and rules and
15 regulations having the force of law.

16 "Obligee" means: an individual to whom a duty of support is or is
17 alleged to be owed or in whose favor a support order has been issued
18 or a judgment determining parentage has been rendered; a state or
19 political subdivision to which the rights under a duty of support or
20 support order have been assigned or which has independent claims
21 based on financial assistance provided to an individual obligee; or an
22 individual seeking a judgment determining parentage of the individual's
23 child.

24 "Obligor" means an individual, or the estate of a decedent: who
25 owes or is alleged to owe a duty of support; who is alleged but has not
26 been adjudicated to be a parent of a child; or who is liable under a
27 support order.

28 "Register" means to record a support order or judgment
29 determining parentage in the Superior Court.

30 "Registering tribunal" means a tribunal in which a support order is
31 registered.

32 "Responding state" means a state to which a proceeding is
33 forwarded under this act or a law substantially similar to this act, the
34 Uniform Reciprocal Enforcement of Support Act, or the Revised
35 Uniform Reciprocal Enforcement of Support Act.

36 "Responding tribunal" means the authorized tribunal in a responding
37 state.

38 "Spousal-support order" means a support order for a spouse or
39 former spouse of the obligor.

40 "State" means a state of the United States, the District of Columbia,
41 the Commonwealth of Puerto Rico, or any territory or insular
42 possession subject to the jurisdiction of the United States. The term
43 "state" includes an Indian tribe and includes a foreign jurisdiction that
44 has established procedures for issuance and enforcement of support
45 orders which are substantially similar to the procedures under this act.

46 "Support enforcement agency" means a public official or agency

1 authorized to seek: enforcement of support orders or laws relating to
2 the duty of support; establishment or modification of child support;
3 determination of parentage; or to locate obligors or their assets.

4 "Support order" means a judgment, decree, or order, whether
5 temporary, final, or subject to modification, for the benefit of a child,
6 a spouse, or a former spouse, which provides for monetary support,
7 health care, arrearages, or reimbursement, and may include related
8 costs and fees, interest, income withholding, attorney's fees, and other
9 relief.

10 "Tribunal" means a court, administrative agency, or quasi-judicial
11 entity authorized to establish, enforce, or modify support orders or to
12 determine parentage.

13
14 2. The Superior Court, Chancery Division, Family Part is the
15 tribunal of this State.

16
17 3. Remedies provided by this act are cumulative and do not affect
18 the availability of remedies under other law.

19
20 ARTICLE 2
21 JURISDICTION

22
23 PART A
24 EXTENDED PERSONAL JURISDICTION

25
26 4. In a proceeding to establish, enforce, or modify a support order
27 or to determine parentage, a tribunal of this State may exercise
28 personal jurisdiction over a nonresident individual or the individual's
29 guardian or conservator if:

30 a. the individual is personally served with a summons within this
31 State;

32 b. the individual submits to the jurisdiction of this State by consent,
33 by entering a general appearance, or by filing a responsive document
34 having the effect of waiving any contest to personal jurisdiction;

35 c. the individual resided with the child in this State;

36 d. the individual resided in this State and provided prenatal expense
37 or support for the child;

38 e. the child resides in this State as a result of the acts or directives
39 of the individual;

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

42 g. there is any other basis consistent with the constitutions of this
43 State and the United States for the exercise of personal jurisdiction.

44
45 5. A tribunal of this State exercising personal jurisdiction over a
46 nonresident under section 4 of P.L. , c. (C.)(Pending before the

1 Legislature as this bill) may apply section 27 of P.L. , c. (C.)
2 (Pending before the Legislature as this bill) to receive evidence from
3 another state, and section 29 of P.L. , c. (C.)(Pending before the
4 Legislature as this bill) to obtain discovery through a tribunal of
5 another state. In all other respects, sections 13 through 46 of P.L. ,
6 c. (C.)(Pending before the Legislature as this bill) do not apply and
7 the tribunal shall apply the procedural and substantive law of this
8 State, including the rules on choice of law other than those established
9 by this act.

11 PART B

12 PROCEEDINGS INVOLVING TWO OR MORE STATES

14 6. Under this act, a tribunal of this State may serve as an initiating
15 tribunal to forward proceedings to another state and as a responding
16 tribunal for proceedings initiated in another state.

18 7. a. A tribunal of this State may exercise jurisdiction to establish
19 a support order if the complaint or comparable pleading is filed after
20 a complaint or comparable pleading is filed in another state only if:

21 (1) the complaint or comparable pleading in this State is filed
22 before the expiration of the time allowed in the other state for filing a
23 responsive pleading challenging the exercise of jurisdiction by the
24 other state;

25 (2) the contesting party timely challenges the exercise of
26 jurisdiction in the other state; and

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

28 b. A tribunal of this State may not exercise jurisdiction to establish
29 a support order if the petition or comparable pleading is filed before
30 a petition or comparable pleading is filed in another state if:

31 (1) the petition or comparable pleading in the other state is filed
32 before the expiration of the time allowed in this State for filing a
33 responsive pleading challenging the exercise of jurisdiction by this
34 State;

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

37 (3) if relevant, the other state is the home state of the child.

39 8. a. A tribunal of this State issuing a support order consistent
40 with the law of this State has continuing, exclusive jurisdiction over a
41 child support order:

42 (1) as long as this State remains the residence of the obligor, the
43 individual obligee, or the child for whose benefit the support order is
44 issued; or

45 (2) until each individual party has filed written consent with the
46 tribunal of this State for a tribunal of another state to modify the order

1 and assume continuing, exclusive jurisdiction.

2 b. A tribunal of this State issuing a child support order consistent
3 with the law of this State may not exercise its continuing jurisdiction
4 to modify the order if the order has been modified by a tribunal of
5 another state pursuant to a law substantially similar to this act.

6 c. If a child support order of this State is modified by a tribunal of
7 another state pursuant to a law substantially similar to this act, a
8 tribunal of this State loses its continuing, exclusive jurisdiction with
9 regard to prospective enforcement of the order issued in this State and
10 may only:

11 (1) enforce the order that was modified as to amounts accruing
12 before the modification;

13 (2) enforce nonmodifiable aspects of that order; and

14 (3) provide other appropriate relief for violations of that order
15 which occurred before the effective date of the modification.

16 d. A tribunal of this State shall recognize the continuing, exclusive
17 jurisdiction of a tribunal of another state which has issued a child
18 support order pursuant to a law substantially similar to this act.

19 e. A temporary support order issued ex parte or pending resolution
20 of a jurisdictional conflict does not create continuing, exclusive
21 jurisdiction in the issuing tribunal.

22 f. A tribunal of this State issuing a support order consistent with
23 the law of this State has continuing, exclusive jurisdiction over a
24 spousal support order throughout the existence of the support
25 obligation. A tribunal of this State may not modify a spousal support
26 order issued by a tribunal of another state having continuing, exclusive
27 jurisdiction over that order under the law of that state.

28

29 9. a. A tribunal of this State may serve as an initiating tribunal to
30 request a tribunal of another state to enforce or modify a support
31 order issued in that state.

32 b. A tribunal of this State having continuing, exclusive jurisdiction
33 over a support order may act as a responding tribunal to enforce or
34 modify the order. If a party subject to the continuing, exclusive
35 jurisdiction of the tribunal no longer resides in the issuing state, in
36 subsequent proceedings the tribunal may apply section 27 of P.L. , c.
37 (C.)(Pending before the Legislature as this bill) to receive evidence
38 from another state and section 29 of P.L. , c. (C.)(Pending before the
39 Legislature as this bill) to obtain discovery through a tribunal of
40 another state.

41 c. A tribunal of this State which lacks continuing, exclusive
42 jurisdiction over a spousal support order may not serve as a
43 responding tribunal to modify a spousal order of another state.

44

45

PART C

46

RECONCILIATION WITH ORDERS OF OTHER STATES

1 (2) enforcement of a support order and income-withholding order
2 of another state without registration pursuant to sections 32 and 33 of
3 P.L. , c. (C.)(Pending before the Legislature as this bill);

4 (3) registration of an order for spousal support or child support of
5 another state for enforcement pursuant to sections 34 through 45 of
6 P.L. , c. (C.)(Pending before the Legislature as this bill);

7 (4) modification of an order for child support or spousal support
8 issued by a tribunal of this State pursuant to sections 6 through 9 of
9 P.L. , c. (C.)(Pending before the Legislature as this bill);

10 (5) registration of an order for child support of another state for
11 modification pursuant to sections 34 through 45 of P.L. , c.
12 (C.)(Pending before the Legislature as this bill);

13 (6) determination of parentage pursuant to section 46 of P.L. , c.
14 (C.)(Pending before the Legislature as this bill); and

15 (7) assertion of jurisdiction over nonresidents pursuant to sections
16 4 and 5 of P.L. , c. (C.)(Pending before the Legislature as this bill).

17 c. An individual petitioner or a support enforcement agency may
18 commence a proceeding authorized under this act by filing a complaint
19 in an initiating tribunal for forwarding to a responding tribunal or by
20 filing a complaint or a comparable pleading directly in a tribunal of
21 another state which has or can obtain personal jurisdiction over the
22 respondent.

23

24 14. A minor parent, or a guardian or other legal representative of
25 a minor parent, may maintain a proceeding on behalf of or for the
26 benefit of the minor's child.

27

28 15. Except as otherwise provided by this act, a responding tribunal
29 of this State:

30 a. shall apply the procedural and substantive law, including the
31 rules on choice of law, generally applicable to similar proceedings
32 originating in this State and may exercise all powers and provide all
33 remedies available in those proceedings; and

34 b. shall determine the duty of support and the amount payable in
35 accordance with the law and support guidelines of this State.

36

37 16. Upon the filing of a complaint authorized by this act, an
38 initiating tribunal of this State shall forward three copies of the
39 complaint and its accompanying documents:

40 a. to the responding tribunal or appropriate support enforcement
41 agency in the responding state; or

42 b. if the identity of the responding tribunal is unknown, to the state
43 information agency of the responding state with a request that they be
44 forwarded to the appropriate tribunal and that receipt be
45 acknowledged.

1 17. a. When a responding tribunal of this State receives a
2 complaint or comparable pleading from an initiating tribunal or directly
3 pursuant to subsection c. of section 13 of P.L. , c. (C.)(Pending
4 before the Legislature as this bill), it shall cause the complaint or
5 pleading to be filed and notify the petitioner by first class mail where
6 and when it was filed.

7 b. A responding tribunal of this State, to the extent otherwise
8 authorized by law, may do one or more of the following:

9 (1) issue or enforce a support order, modify a child support order,
10 or render a judgment to determine parentage;

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

13 (3) order income withholding;

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

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

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

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

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

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

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

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

29 (12) grant any other available remedy.

30 c. A responding tribunal of this State shall include in a support
31 order issued under this act, or in the documents accompanying the
32 order, the calculations on which the support order is based.

33 d. A responding tribunal of this State may not condition the
34 payment of a support order issued under this act upon compliance by
35 a party with provisions for visitation.

36 e. If a responding tribunal of this State issues an order under this
37 act, the tribunal shall send a copy of the order by first class mail to the
38 petitioner and the respondent and to the initiating tribunal, if any.

39
40 18. If a complaint or comparable pleading is received by an
41 inappropriate tribunal of this State, it shall forward the pleading and
42 accompanying documents to an appropriate tribunal in this State or
43 another state and notify the petitioner by first class mail where and
44 when the pleading was sent.

45
46 19. a. A support enforcement agency of this State, upon request,

1 shall provide services to a petitioner in a proceeding under this act.

2 b. A support enforcement agency that is providing services, as
3 appropriate, to the petitioner shall:

4 (1) take all steps necessary to enable an appropriate tribunal in this
5 State or another state to obtain jurisdiction over the respondent;

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

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

10 (4) within two days, exclusive of Saturdays, Sundays, and legal
11 holidays, after receipt of a written notice from an initiating,
12 responding, or registering tribunal, send a copy of the notice by first
13 class mail to the petitioner;

14 (5) within two days, exclusive of Saturdays, Sundays, and legal
15 holidays, after receipt of a written communication from the respondent
16 or the respondent's attorney, send a copy of the communication by first
17 class mail to the petitioner; and

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

20 c. This act does not create or negate a relationship of attorney and
21 client or other fiduciary relationship between a support enforcement
22 agency or the attorney for the agency and the individual being assisted
23 by the agency.

24

25 20. An individual may employ private counsel to represent the
26 individual in proceedings authorized by this act.

27

28 21. a. The Administrative Director of the Administrative Office of
29 the Courts is the State information agency under this act.

30 b. The State information agency shall:

31 (1) compile and maintain a current list, including addresses, of the
32 tribunals in this State which have jurisdiction under this act and any
33 support enforcement agencies in this State and transmit a copy to the
34 state information agency of every other state;

35 (2) maintain a register of tribunals and support enforcement
36 agencies received from other states;

37 (3) forward to the appropriate tribunal in the place in this State in
38 which the individual obligee or the obligor resides, or in which the
39 obligor's property is believed to be located all documents concerning
40 a proceeding under this act received from an initiating tribunal or the
41 state information agency of the initiating state; and

42 (4) obtain information concerning the location of the obligor and
43 the obligor's property within this State not exempt from execution, by
44 such means as postal verification and federal or state locator services,
45 examination of telephone directories, requests for the obligor's address
46 from employers, and examination of governmental records, including

1 to the extent not prohibited by other law, those relating to real
2 property, vital statistics, law enforcement, taxation, motor vehicles,
3 driver's licenses and social security.

4
5 22. a. A petitioner seeking to establish or modify a support order
6 or to determine parentage in a proceeding under this act must verify
7 the complaint. Unless otherwise ordered under section 23 of P.L. , c.
8 (C.)(Pending before the Legislature as this bill), the complaint or
9 accompanying documents must provide, so far as known, the name,
10 residential address, and social security numbers of the obligor and the
11 obligee, and the name, sex, residential address, social security number,
12 and date of birth of each child for whom support is sought. The
13 complaint must be accompanied by a certified copy of any support
14 order in effect. The complaint may include any other information that
15 may assist in locating or identifying the respondent.

16 b. The complaint must specify the relief sought. The complaint and
17 accompanying documents must conform substantially with the
18 requirements imposed by the forms mandated by federal law for use in
19 cases filed by a support enforcement agency.

20
21 23. Upon a finding, which may be made ex parte, that the health,
22 safety, or liberty of a party or child would be unreasonably put at risk
23 by the disclosure of identifying information, or if any existing order so
24 provides, a tribunal shall order that the address of the child or party or
25 other identifying information not be disclosed in a pleading or other
26 document filed in a proceeding under this act.

27
28 24. a. The petitioner may not be required to pay a filing fee or
29 other costs.

30 b. If an obligee prevails, a responding tribunal may assess against
31 an obligor filing fees, reasonable attorney's fees, other costs, and
32 necessary travel and other reasonable expenses incurred by the obligee
33 and the obligee's witnesses. The tribunal may not assess fees, costs,
34 or expenses against the obligee or the support enforcement agency of
35 either the initiating or the responding state, except as provided by
36 other law. Attorney's fees may be taxed as costs, and may be ordered
37 paid directly to the attorney, who may enforce the order in the
38 attorney's own name. Payment of support owed to the obligee has
39 priority over fees, costs and expenses.

40 c. The tribunal shall order the payment of costs and reasonable
41 attorney's fees if it determines that a hearing was requested primarily
42 for delay. In a proceeding under sections 34 through 45 of P.L. ,
43 c. (C.)(Pending before the Legislature as this bill), a hearing is
44 presumed to have been requested primarily for delay if a registered
45 support order is confirmed or enforced without change.

1 25. a. Participation by a petitioner in a proceeding before a
2 responding tribunal, whether in person, by private attorney, or through
3 services provided by the support enforcement agency, does not confer
4 personal jurisdiction over the petitioner in another proceeding.

5 b. A petitioner is not amenable to service of civil process while
6 physically present in this State to participate in a proceeding under this
7 act.

8 c. The immunity granted by this section does not extend to civil
9 litigation based on acts unrelated to a proceeding under this act
10 committed by a party while present in this State to participate in the
11 proceeding.

12
13 26. A party whose parentage of a child has been previously
14 determined by or pursuant to law may not plead nonparentage as a
15 defense to a proceeding under this act.

16
17 27. a. The physical presence of the petitioner in a responding
18 tribunal of this State is not required for the establishment,
19 enforcement, or modification of a support order or the rendition of a
20 judgment determining parentage.

21 b. A verified complaint, affidavit, document substantially
22 complying with federally mandated forms, and a document
23 incorporated by reference in any of them, not excluded under the
24 hearsay rule if given in person, is admissible in evidence if given under
25 oath by a party or witness residing in another state.

26 c. A copy of the record of child support payments certified as a
27 true copy of the original by the custodian of the record may be
28 forwarded to a responding tribunal. This copy is evidence of facts
29 asserted in it, and is admissible to show whether payments were made.

30 d. Copies of bills for testing for parentage, and for prenatal and
31 postnatal health care of the mother and child, furnished to the adverse
32 party at least 10 days before trial, are admissible in evidence to prove
33 the amount of the charges billed and that the charges were reasonable,
34 necessary and customary.

35 e. Documentary evidence transmitted from another state to a
36 tribunal of this State by telephone, telecopier, or other means that do
37 not provide an original writing may not be excluded from evidence on
38 an objection based on the means of transmission.

39 f. In a proceeding under this act, a tribunal of this State may permit
40 a party or witness residing in another state to be deposed or to testify
41 by telephone, audiovisual means, or other electronic means at a
42 designated tribunal or other location in that state. A tribunal of this
43 State shall cooperate with tribunals of other states in designating an
44 appropriate location for the deposition or testimony.

45 g. If a party called to testify at a civil hearing refuses to answer on
46 the ground that the testimony may be self-incriminating, the trier of

1 fact may draw an adverse inference from the refusal.

2 h. A privilege against disclosure of communications between
3 spouses does not apply in a proceeding under this act.

4 i. The defense of immunity based on the relationship of husband
5 and wife or parent and child does not apply in a proceeding under this
6 act.

7
8 28. A tribunal of this State may communicate with a tribunal of
9 another state in writing, or by telephone or other means, to obtain
10 information concerning the laws of that state, the legal effect of a
11 judgment, decree, or order of that tribunal, and the status of a
12 proceeding in the other state. A tribunal of this State may furnish
13 similar information by similar means to a tribunal of another state.

14
15 29. A tribunal of this State may:

16 a. request a tribunal of another state to assist in obtaining
17 discovery; and

18 b. upon request, compel a person over whom it has jurisdiction to
19 respond to a discovery order issued by a tribunal of another state.

20

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

27

28 ARTICLE 4

29 ESTABLISHMENT OF SUPPORT ORDER

30

31 31. a. If a support order entitled to recognition under this act has
32 not been issued, a responding tribunal of this State may issue a support
33 order if:

34 (1) the individual seeking the order resides in another state; or

35 (2) the support enforcement agency seeking the order is located in
36 another state.

37 b. The tribunal may issue a temporary child support order if:

38 (1) the respondent has signed a verified statement acknowledging
39 parentage;

40 (2) the respondent has been determined by or pursuant to law to be
41 the parent; or

42 (3) there is other clear and convincing evidence that the respondent
43 is the child's parent.

44 c. Upon finding, after notice and opportunity to be heard, that an
45 obligor owes a duty of support, the tribunal shall issue a support order
46 directed to the obligor and may issue other orders pursuant to section

1 17 of P.L. , c. (C.)(Pending before the Legislature as this bill).

2

3

ARTICLE 5

4

DIRECT ENFORCEMENT OF ORDER OF ANOTHER

5

STATE WITHOUT REGISTRATION

6

7 32. a. An income-withholding order issued in another state may be
8 sent by first class mail to the person or entity defined as the obligor's
9 employer under the "New Jersey Support Enforcement Act,"
10 P.L.1981, c.417 (C.2A:17-56.7 et seq.) and the "Support Enforcement
11 Act of 1985," P.L.1985, c.278 (C.2A:17-56.17 et seq.) without first
12 filing a complaint or comparable pleading or registering the order with
13 a tribunal of this State. Upon receipt of the order, the employer shall:

14 (1) treat an income-withholding order issued in another state which
15 appears regular on its face as if it had been issued by a tribunal of this
16 State;

17 (2) immediately provide a copy of the order to the obligor; and

18 (3) distribute the funds as directed in the withholding order.

19 b. An obligor may contest the validity or enforcement of an
20 income-withholding order issued in another state in the same manner
21 as if the order had been issued by a tribunal of this State. Section 37
22 of P.L. , c. (C.)(Pending before the Legislature as this bill) applies to
23 the contest. The obligor shall give notice of the contest to any support
24 enforcement agency providing services to the obligee and to:

25 (1) the person or agency designated to receive payments in the
26 income-withholding order; or

27 (2) if no person or agency is designated, the obligee.

28

29 33. a. A party seeking to enforce a support order or an
30 income-withholding order, or both, issued by a tribunal of another
31 state may send the documents required for registering the order to a
32 support enforcement agency of this State.

33 b. Upon receipt of the documents, the support enforcement
34 agency, without initially seeking to register the order, shall consider
35 and, if appropriate, use any administrative procedure authorized by the
36 law of this State to enforce a support order or an income-withholding
37 order, or both. If the obligor does not contest administrative
38 enforcement, the order need not be registered. If the obligor contests
39 the validity or administrative enforcement of the order, the support
40 enforcement agency shall register the order pursuant to this act.

1 37. a. The law of the issuing state governs the nature, extent,
2 amount, and duration of current payments and other obligations of
3 support and the payment of arrearages under the order.

4 b. In a proceeding for arrearages, the statute of limitation under the
5 laws of this State or of the issuing state, whichever is longer, applies.

6
7 PART B

8 CONTEST OF VALIDITY OR ENFORCEMENT
9

10 38. a. When a support order or income-withholding order issued
11 in another state is registered, the registering tribunal shall notify the
12 nonregistering party. Notice must be given by first class, certified, or
13 registered mail or by any means of personal service authorized by the
14 law of this State. The notice must be accompanied by a copy of the
15 registered order and the documents and relevant information
16 accompanying the order.

17 b. The notice must inform the nonregistering party:

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

21 (2) that a hearing to contest the validity or enforcement of the
22 registered order must be requested within 20 days after the date of
23 mailing or personal services of the notice;

24 (3) that failure to contest the validity or enforcement of the
25 registered order in a timely manner will result in confirmation of the
26 order and enforcement of the order and the alleged arrearages and
27 precludes further contest of that order with respect to any matter that
28 could have been asserted; and

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

30 c. Upon registration of an income-withholding order for
31 enforcement, the registering tribunal shall notify the obligor's employer
32 pursuant to the "New Jersey Support Enforcement Act," P.L.1981,
33 c.417 (C.2A:17-56.7 et seq.) and the "Support Enforcement Act of
34 1985," P.L.1985, c.278 (C.2A:17-56.17 et seq.).
35

36 39. a. A nonregistering party seeking to contest the validity or
37 enforcement of a registered order in this State shall request a hearing
38 within 20 days after the date of mailing or personal service of notice
39 of the registration. The nonregistering party may seek to vacate the
40 registration, to assert any defense to an allegation of noncompliance
41 with the registered order, or to contest the remedies being sought or
42 the amount of any alleged arrearages pursuant to section 40 of P.L. ,
43 c. (C.)(Pending before the Legislature as this bill).

44 b. If the nonregistering party fails to contest the validity or
45 enforcement of the registered order in a timely manner, the order is
46 confirmed by operation of law.

1 c. If a nonregistering party requests a hearing to contest the
2 validity or enforcement of the registered order, the registering tribunal
3 shall schedule the matter for hearing and give notice to the parties by
4 first class mail of the date, time and place of the hearing.

5
6 40. a. A party contesting the validity of enforcement of a
7 registered order or seeking to vacate the registration has the burden
8 of proving one or more of the following defenses:

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

11 (2) the order was obtained by fraud;

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

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

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

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

18 (7) the statute of limitation under section 37 of P.L. , c.
19 (C.)(Pending before the Legislature as this bill) precludes enforcement
20 of some or all of the arrearages.

21 b. If a party presents evidence establishing a full or partial defense
22 under subsection a. of this section, a tribunal may stay enforcement of
23 the registered order, continue the proceeding to permit production of
24 additional relevant evidence, and issue other appropriate orders. An
25 uncontested portion of the registered order may be enforced by all
26 remedies available under the law of this State.

27 c. If the contesting party does not establish a defense under
28 subsection a. of this section to the validity or enforcement of the
29 order, the registering tribunal shall issue an order confirming the order.

30
31 41. Confirmation of a registered order, whether by operation of
32 law or after notice and hearing, precludes further contest of the order
33 with respect to any matter that could have been asserted at the time of
34 registration.

35
36 PART C
37 REGISTRATION AND MODIFICATION OF
38 CHILD SUPPORT ORDER
39

40 42. A party or support enforcement agency seeking to modify, or
41 to modify and enforce, a child support order issued in another state
42 shall register that order in this State in the same manner provided in
43 sections 34 through 37 of P.L. , c. (C.)(Pending before the
44 Legislature as this bill) if the order has not been registered. A
45 complaint for modification may be filed at the same time as a request
46 for registration, or later. The pleading must specify the grounds for

1 modification.

2

3 43. A tribunal of this State may enforce a child support order of
4 another state registered for purposes of modification, in the same
5 manner as if the order had been issued by a tribunal of this State, but
6 the registered order may be modified only if the requirements of
7 section 44 of P.L. , c. (C.)(Pending before the Legislature as this bill)
8 have been met.

9

10 44. a. After a child support order issued in another state has been
11 registered in this State, the responding tribunal of this State may
12 modify that order only if, after notice and hearing, it finds that:

13 (1) the following requirements are met:

14 (a) the child, the individual obligee, and the obligor do not reside
15 in the issuing state;

16 (b) a petitioner who is a nonresident of this State seeks
17 modification; and

18 (c) the respondent is subject to the personal jurisdiction of the
19 tribunal of this State; or

20 (2) an individual party or the child is subject to the personal
21 jurisdiction of the tribunal and all of the individual parties have filed
22 a written consent in the issuing tribunal providing that a tribunal of this
23 State may modify the support order and assume continuing, exclusive
24 jurisdiction over the order.

25 b. Modification of a registered child support order is subject to the
26 same requirements, procedures, and defenses that apply to the
27 modification of an order issued by a tribunal of this State and the order
28 may be enforced and satisfied in the same manner.

29 c. A tribunal of this State may not modify any aspect of a child
30 support order that may not be modified under the law of the issuing
31 state.

32 d. On issuance of an order modifying a child support order issued
33 in another state, a tribunal of this State becomes the tribunal of
34 continuing, exclusive jurisdiction.

35 e. Within 30 days after issuance of a modified child support order,
36 the party obtaining the modification shall file a certified copy of the
37 order with the issuing tribunal which had continuing, exclusive
38 jurisdiction over the earlier order, and in each tribunal in which the
39 party knows that earlier order has been registered.

40

41 45. A tribunal of this State shall recognize a modification of its
42 earlier child support order by a tribunal of another state which
43 assumed jurisdiction pursuant to a law substantially similar to this act
44 and, upon request, except as otherwise provided in this act, shall:

45 a. enforce the order that was modified only as to amounts accruing
46 before the modification;

- 1 b. enforce only nonmodifiable aspects of that order;
- 2 c. provide other appropriate relief only for violations of that order
- 3 which occurred before the effective date of the modification; and
- 4 d. recognize the modifying order of the other state, upon
- 5 registration, for the purpose of enforcement.

ARTICLE 7

DETERMINATION OF PARENTAGE

- 6
- 7
- 8
- 9
- 10 46. a. A tribunal of this State may serve as an initiating or
- 11 responding tribunal in a proceeding brought under this act or a law
- 12 substantially similar to this act, the Uniform Reciprocal Enforcement
- 13 of Support Act, or the Revised Uniform Reciprocal Enforcement of
- 14 Support Act to determine that the petitioner is a parent of a particular
- 15 child or to determine that a respondent is a parent of that child.
- 16 b. In a proceeding to determine parentage, a responding tribunal of
- 17 this State shall apply the procedural and substantive law of this State,
- 18 and the rules of this State on choice of law.

ARTICLE 8

INTERSTATE RENDITION

- 19
- 20
- 21
- 22
- 23 47. a. The Governor of this State may:
- 24 (1) demand that the governor of another state surrender an
- 25 individual found in the other state who is charged criminally in this
- 26 State with having failed to provide for the support of an obligee; or
- 27 (2) on the demand by the governor of another state surrender an
- 28 individual found in this State who is charged criminally in the other
- 29 state with having failed to provide for the support of an obligee.
- 30 b. A provision for extradition of individuals not inconsistent with
- 31 this act applies to the demand even if the individual whose surrender
- 32 is demanded was not in the demanding state when the crime was
- 33 allegedly committed and has not fled therefrom.
- 34
- 35 48. a. Before making demand that the governor of another state
- 36 surrender an individual charged criminally in this State with having
- 37 failed to provide for the support of an obligee, the Governor of this
- 38 State may require a prosecutor of this State to demonstrate that at
- 39 least 60 days previously the obligee had initiated proceedings for
- 40 support pursuant to this act or that the proceeding would be of no
- 41 avail.
- 42 b. If, under this act or a law substantially similar to this act, the
- 43 Uniform Reciprocal Enforcement of Support Act, or the Revised
- 44 Uniform Reciprocal Enforcement of Support Act, the governor of
- 45 another state makes a demand that the Governor of this State
- 46 surrender an individual charged criminally in that state with having

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

8 c. If a proceeding for support has been initiated and the individual
9 whose rendition is demanded prevails, the Governor may decline to
10 honor the demand. If the petitioner prevails and the individual whose
11 rendition is demanded is subject to a support order, the Governor may
12 decline to honor the demand if the individual is complying with the
13 support order.

14 ARTICLE 9

15 MISCELLANEOUS PROVISIONS

16
17
18 49. This act shall be applied and construed to effectuate its general
19 purpose to make uniform the law with respect to the subject of this act
20 among states enacting it.

21
22 50. This act may be cited as the "Uniform Interstate Family
23 Support Act."

24
25 51. If any provision of this act or its application to any person or
26 circumstance is held invalid, the invalidity does not affect other
27 provisions or applications of this act which can be given effect
28 without the invalid provision or application, and to this end the
29 provisions of this act are severable.

30
31 52. P.L.1981, c.243 (C.2A:4-30.24 et seq.) and sections 15 and 16
32 of P.L.1985, c.278 (C.2A:17-56.18 and 2A:17-56.19) are repealed.

33
34 53. This act shall take effect on the 180th day after enactment.

35 STATEMENT

36
37
38
39 This bill reflects the recommendations proposed by the Uniform
40 Interstate Family Support Act (UIFSA). The National Conference of
41 Commissioners on Uniform State Laws approved this act in 1992 to
42 respond to Congressional legislation on child support enforcement
43 law. This new law was designed to completely revise the Revised
44 Uniform Reciprocal Enforcement of Support Act of 1968 (RURESA)
45 which was adopted in New Jersey as P.L.1981, c.243 (C.2A:4-30.24
46 et seq.).

1 The following is a summary of the provisions of UIFSA:

2

3 Article 1 provides:

4 **M** A definitional section which differs from RURESAs primarily in
5 the use of the term "tribunal" for "court" in recognition of the fact that
6 many states have created administrative agencies to establish, enforce,
7 and modify child support.

8 **M** That the Superior Court, Chancery Division, Family Part is
9 designated as the tribunal of this State.

10 **M** That the procedures for establishment, enforcement, or
11 modification of support or a determination of parentage under this act
12 do not preclude the application of general State law.

13

14 Article 2, Part A asserts what is commonly described as long-arm
15 jurisdiction over a nonresident respondent for purposes of establishing
16 a support order or determining parentage. Part A provides:

17 **M** The bases for long-arm jurisdiction over a nonresident.

18 **M** That when long-arm jurisdiction is asserted, the provisions of
19 UIFSA are not applicable, with two exceptions. The exceptions allow
20 the tribunal to apply the special rules of evidence and the rules on
21 discovery which are both set forth in Article 3.

22

23 Article 2, Part B tracks the traditional RURESAs action involving
24 residents of separate states. In this situation, the initiating state does
25 not assert personal jurisdiction over the nonresident, but instead
26 forwards the case to another, responding state, which is to assert
27 personal jurisdiction over its resident. Part B provides:

28 **M** For the identification of the roles a tribunal may serve, either as
29 an initiating or a responding tribunal.

30 **M** A method for the one-order system to eliminate the multiple
31 orders common under RURESAs. UIFSA resolves conflict between
32 competing jurisdictional assertions by establishing a priority for the
33 tribunal in the child's home state or if there is no home state, with
34 "first filing."

35 **M** That the issuing tribunal retains continuing, exclusive
36 jurisdiction over the support order except in very narrowly defined
37 circumstances.

38 **M** That a state that enacts this law recognizes the continuing,
39 exclusive jurisdiction of other tribunals over support orders and
40 authorizes the initiation of requests for modification to the issuing
41 state; that a tribunal having continuing, exclusive jurisdiction over a
42 support order may act as a responding tribunal to enforce or modify
43 the order; and that tribunals of the enacting states must adhere to the
44 one-order-at-a-time system.

45

46 Article 2, Part C is designed to span the gulf between the one-order

1 system of UIFSA and the multiple order system in place under
2 RURESA. Part C provides:

3 **M** For a priority scheme for recognition and enforcement of
4 existing multiple orders regarding the same obligor, obligee or
5 obligees, and the same child.

6 **M** For a method to handle multiple orders involving two or more
7 families of the same obligor by treating all the orders as if they had
8 been issued by a tribunal of this State.

9 **M** That until the one-order system of UIFSA is in place, it is
10 necessary to mandate credit for actual payments made against all
11 existing orders.

12

13 Article 3 provides:

14 **M** A list of the types of actions authorized by UIFSA.

15 **M** That a minor parent may maintain an action under UIFSA
16 without the appointment of a guardian ad litem, even if the law of the
17 jurisdiction requires a guardian for an in-state case.

18 **M** That a tribunal will have the same powers in an action involving
19 interstate parties as it has in an intrastate case, which will insure the
20 efficient processing of interstate support cases.

21 **M** For the duties of the initiating tribunal which consist of
22 forwarding the required documents.

23 **M** For the duties of the responding tribunal, including mechanical
24 functions and judicial functions, and for substantive rules applicable to
25 interstate cases.

26 **M** That a tribunal that receives UIFSA documents in error, forward
27 them to the appropriate tribunal.

28 **M** For the duties of a support enforcement agency.

29 **M** For the right of a party to retain private counsel in an action
30 brought under UIFSA.

31 **M** For the duties of the Director of the Administrative Office of the
32 Courts as the State information agency.

33 **M** For the basic requirements for the drafting and filing of
34 interstate pleadings.

35 **M** For confidentiality in the pleadings if there is a serious risk of
36 domestic violence or child abduction.

37 **M** For fees and costs to be assessed against the obligor.

38 **M** That the petitioner is not subject to personal jurisdiction by this
39 State in other litigation between the parties due to participation in a
40 UIFSA proceeding; for an immunity from service of process during the
41 time a party is physically present in a state for a UIFSA action; and for
42 the withholding of immunity from civil litigation unrelated to the
43 support action stemming from contemporaneous acts committed by a
44 party while present in the state for the support litigation.

45 **M** That a parentage decree rendered by another tribunal is not
46 subject to collateral attack in a UIFSA proceeding except on a

1 fundamental constitutional ground.

2 **M** For special rules on evidence and procedure for interstate
3 support cases including rules to eliminate many potential hearsay
4 problems and rules to encourage tribunals and litigants to take
5 advantage of modern methods of communication.

6 **M** Authorization for the communication between courts in order
7 to expedite establishment and enforcement of the support order of
8 either this State or of the sister state.

9 **M** For the facilitation of interstate cooperation in the discovery
10 process.

11 **M** For the prompt disbursement of any amounts received by a support
12 enforcement agency pursuant to a support order.

13

14 Article 4 provides authorization for a tribunal of the responding
15 state to issue temporary and permanent support orders binding on an
16 obligor over whom the tribunal has personal jurisdiction, if no other
17 support order exists and no other tribunal has continuing, exclusive
18 jurisdiction over the matter.

19

20 Article 5 provides:

21 **M** For the direct recognition by the obligor's employer of a
22 withholding order issued by another state.

23 **M** Authorization for summary enforcement of a sister state support
24 order through any administrative means available for local orders.

25

26 Article 6, Part A expands the procedure for the registration of
27 foreign support orders available under RURESA. Part A provides:

28 **M** For the registration of the support order in the responding state
29 as the first step to enforcement by a tribunal of that state.

30 **M** For an outline of the mechanics for registration of a sister state
31 order.

32 **M** That the foreign support order is to be enforced and satisfied in
33 the same manner as if it had been issued by a tribunal of the registering
34 state; however, the order to be enforced remains an order of the
35 issuing state and any request for relief that requires application of the
36 continuing, exclusive jurisdiction of the issuing tribunal must be sought
37 in the issuing forum.

38 **M** Situations in which local law is inapplicable.

39

40 Article 6, Part B provides procedures for the nonregistering party
41 to contest registration of an order, either because the order is allegedly
42 invalid, superseded, or no longer in effect, or because the enforcement
43 remedy being sought is opposed by the nonregistering party. Part B
44 specifically provides:

45 **M** That the nonregistering party must be fully informed of the
46 effect of registration. After such notice is given, absent a successful

1 contest by the nonregistering party, the order will be confirmed and
2 future contest will be precluded.

3 **M** For the procedure to contest validity or enforcement of a
4 registered order.

5 **M** That the burden of proving the enumerated defenses to
6 registration of a support order is placed on the nonregistering party.

7 **M** For the confirmation of a support order which validates both the
8 terms of the order and the asserted arrearages.

9 Article 6, Part C deals with situations in which it is necessary for a
10 registering state to modify the existing child support order of another
11 state. Part C provides:

12 **M** That a petitioner wishing to register a support order of another
13 state for purposes of modification must conform to the general
14 requirements for pleadings and the procedures for registration set forth
15 in the bill.

16 **M** That an order registered for purposes of modification may be
17 enforced in the same manner as an order registered for purposes of
18 enforcement.

19 **M** That this State's tribunal may modify a foreign support order if
20 specific factual preconditions are found.

21 **M** For the recognition by the original issuing state of a modified
22 order by a tribunal of another state which assumed jurisdiction
23 pursuant to law.

24

25 Article 7 provides for authorization of a "pure" parentage action in
26 the interstate context.

27

28 Article 8 provides:

29 **M** For interstate rendition of an individual who is charged
30 criminally with having failed to provide for the support of an obligee.

31 **M** Conditions that a governor may implement before making the
32 demand for an individual's surrender or before honoring this type of
33 demand.

34

35 Article 9 provides:

36 **M** That this uniform act should be applied and construed to
37 effectuate its general purpose.

38 **M** For the title of the uniform act.

39 **M** A severability provision.

40 **M** For the repeal of the RURESA, P.L.1981, c.243 (C.2A:4-30.24
41 et seq.), and sections 15 and 16 of P.L.1985, c.278 (C.2A:17-56.18
42 and 2A:17-56.19), which are also applicable to interstate enforcement
43 of support orders.

1

2

3 Designated the "Uniform Interstate Family Support Act."

WITHDRAWN

WITHDRAWN