

1 SB268
2 165351-3
3 By Senator Ward
4 RFD: Judiciary
5 First Read: 18-MAR-15

1 SB268

2
3
4 ENROLLED, An Act,

5 To add Chapter 3D (commencing with Section
6 30-3D-101) to Title 30, Code of Alabama 1975; to adopt the
7 2008 Uniform Interstate Family Support Act; to provide
8 guidelines and procedures for the registration, enforcement,
9 and modification of foreign support orders from countries that
10 are parties to the Hague Convention; and to repeal Chapter 3A,
11 (commencing with Section 30-3A-101) of Title 30 of the Code of
12 Alabama 1975.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. Chapter 3D (commencing with Section
15 30-3D-101) is added to Title 30 of the Code of Alabama 1975,
16 to read as follows:

17 CHAPTER 3D.

18 UNIFORM INTERSTATE FAMILY SUPPORT ACT

19 ARTICLE 1 GENERAL PROVISIONS

20 §30-3D-101. SHORT TITLE. This chapter may be cited
21 as the Uniform Interstate Family Support Act.

22 §30-3D-102. DEFINITIONS. In this chapter:

23 (1) "Child" means an individual, whether over or
24 under the age of majority, who is or is alleged to be owed a
25 duty of support by the individual's parent or who is or is

1 alleged to be the beneficiary of a support order directed to
2 the parent.

3 (2) "Child-support order" means a support order for
4 a child, including a child who has attained the age of
5 majority under the law of the issuing state or foreign
6 country.

7 (3) "Convention" means the Convention on the
8 International Recovery of Child Support and Other Forms of
9 Family Maintenance, concluded at The Hague on November 23,
10 2007.

11 (4) "Duty of support" means an obligation imposed or
12 imposable by law to provide support for a child, spouse, or
13 former spouse, including an unsatisfied obligation to provide
14 support.

15 (5) "Foreign country" means a country, including a
16 political subdivision thereof, other than the United States,
17 that authorizes the issuance of support orders and:

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

20 (B) which has established a reciprocal arrangement
21 for child support with this state as provided in Section
22 30-3D-308;

23 (C) which has enacted a law or established
24 procedures for the issuance and enforcement of support orders

1 which are substantially similar to the procedures under this
2 chapter; or

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

5 (6) "Foreign support order" means a support order of
6 a foreign tribunal.

7 (7) "Foreign tribunal" means a court, administrative
8 agency, or quasi-judicial entity of a foreign country which is
9 authorized to establish, enforce, or modify support orders or
10 to determine parentage of a child. The term includes a
11 competent authority under the Convention.

12 (8) "Home state" means the state or foreign country
13 in which a child lived with a parent or a person acting as
14 parent for at least six consecutive months immediately
15 preceding the time of filing of a petition or comparable
16 pleading for support and, if a child is less than six months
17 old, the state or foreign country in which the child lived
18 from birth with any of them. A period of temporary absence of
19 any of them is counted as part of the six-month or other
20 period.

21 (9) "Income" includes earnings or other periodic
22 entitlements to money from any source and any other property
23 subject to withholding for support under the law of this
24 state.

1 (10) "Income-withholding order" means an order or
2 other legal process directed to an obligor's employer or other
3 debtor, as defined by the income-withholding law of this
4 state, to withhold support from the income of the obligor.

5 (11) "Initiating tribunal" means the tribunal of a
6 state or foreign country from which a petition or comparable
7 pleading is forwarded or in which a petition or comparable
8 pleading is filed for forwarding to another state or foreign
9 country.

10 (12) "Issuing foreign country" means the foreign
11 country in which a tribunal issues a support order or a
12 judgment determining parentage of a child.

13 (13) "Issuing state" means the state in which a
14 tribunal issues a support order or a judgment determining
15 parentage of a child.

16 (14) "Issuing tribunal" means the tribunal of a
17 state or foreign country that issues a support order or a
18 judgment determining parentage of a child.

19 (15) "Law" includes decisional and statutory law and
20 rules and regulations having the force of law.

21 (16) "Obligee" means:

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

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

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

8 (D) a person that is a creditor in a proceeding
9 under Article 7.

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

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

13 (B) is alleged but has not been adjudicated to be a
14 parent of a child;

15 (C) is liable under a support order; or

16 (D) is a debtor in a proceeding under Article 7.

17 (18) "Outside this state" means a location in
18 another state or a country other than the United States,
19 whether or not the country is a foreign country.

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

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

4 (21) "Register" means to file in a tribunal of this
5 state a support order or judgment determining parentage of a
6 child issued in another state or a foreign country.

7 (22) "Registering tribunal" means a tribunal in
8 which a support order or judgment determining parentage of a
9 child is registered.

10 (23) "Responding state" means a state in which a
11 petition or comparable pleading for support or to determine
12 parentage of a child is filed or to which a petition or
13 comparable pleading is forwarded for filing from another state
14 or a foreign country.

15 (24) "Responding tribunal" means the authorized
16 tribunal in a responding state or foreign country.

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

19 (26) "State" means a state of the United States, the
20 District of Columbia, Puerto Rico, the United States Virgin
21 Islands, or any territory or insular possession under the
22 jurisdiction of the United States. The term includes an Indian
23 nation or tribe.

1 (27) "Support enforcement agency" means a public
2 official, governmental entity, or private agency authorized
3 to:

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

6 (B) seek establishment or modification of child
7 support;

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

9 (D) attempt to locate obligors or their assets; or

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

12 (28) "Support order" means a judgment, decree,
13 order, decision, or directive, whether temporary, final, or
14 subject to modification, issued in a state or foreign country
15 for the benefit of a child, a spouse, or a former spouse,
16 which provides for monetary support, health care, arrearages,
17 retroactive support, or reimbursement for financial assistance
18 provided to an individual obligee in place of child support.
19 The term may include related costs and fees, interest, income
20 withholding, automatic adjustment, reasonable attorney's fees,
21 and other relief.

22 (29) "Tribunal" means a court, administrative
23 agency, or quasi-judicial entity authorized to establish,
24 enforce, or modify support orders or to determine parentage of
25 a child.

1 §30-3D-103. STATE TRIBUNAL AND SUPPORT ENFORCEMENT
2 AGENCY.

3 (a) The court of this state authorized to establish,
4 enforce, or modify a support order or to determine parentage
5 is the tribunal of this state.

6 (b) The Department of Human Resources is the support
7 enforcement agency of this state.

8 §30-3D-104. REMEDIES CUMULATIVE.

9 (a) Remedies provided by this chapter are cumulative
10 and do not affect the availability of remedies under other law
11 or the recognition of a foreign support order on the basis of
12 comity.

13 (b) This chapter does not:

14 (1) provide the exclusive method of establishing or
15 enforcing a support order under the law of this state; or

16 (2) grant a tribunal of this state jurisdiction to
17 render judgment or issue an order relating to child custody or
18 visitation in a proceeding under this chapter.

19 §30-3D-105. APPLICATION OF ACT TO RESIDENT OF
20 FOREIGN COUNTRY AND FOREIGN SUPPORT PROCEEDING.

21 (a) A tribunal of this state shall apply Articles 1
22 through 6 and, as applicable, Article 7, to a support
23 proceeding involving:

24 (1) a foreign support order;

25 (2) a foreign tribunal; or

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

3 (b) A tribunal of this state that is requested to
4 recognize and enforce a support order on the basis of comity
5 may apply the procedural and substantive provisions of
6 Articles 1 through 6.

7 (c) Article 7 applies only to a support proceeding
8 under the Convention. In such a proceeding, if a provision of
9 Article 7 is inconsistent with Articles 1 through 6, Article 7
10 controls.

11 ARTICLE 2. JURISDICTION

12 §30-3D-201. BASES FOR JURISDICTION OVER NONRESIDENT.

13 (a) In a proceeding to establish or enforce a
14 support order or to determine parentage of a child, a tribunal
15 of this state may exercise personal jurisdiction over a
16 nonresident individual or the individual's guardian or
17 conservator if:

18 (1) the individual is personally served with summons
19 within this state;

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

24 (3) the individual resided with the child in this
25 state;

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

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

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

8 (7) the individual asserted parentage of a child in
9 the putative father registry maintained in this state by the
10 Department of Human Resources; or

11 (8) there is any other basis consistent with the
12 constitutions of this state and the United States for the
13 exercise of personal jurisdiction.

14 (b) The bases of personal jurisdiction set forth in
15 subsection (a) or in any other law of this state may not be
16 used to acquire personal jurisdiction for a tribunal of this
17 state to modify a child-support order of another state unless
18 the requirements of Section 30-3D-611 are met, or, in the case
19 of a foreign support order, unless the requirements of Section
20 30-3D-615 are met.

21 §30-3D-202. DURATION OF PERSONAL JURISDICTION.

22 Personal jurisdiction acquired by a tribunal of this state in
23 a proceeding under this chapter or other law of this state
24 relating to a support order continues as long as a tribunal of
25 this state has continuing, exclusive jurisdiction to modify

1 its order or continuing jurisdiction to enforce its order as
2 provided by Sections 30-3D-205, 30-3D-206, and 30-3D-211.

3 §30-3D-203. INITIATING AND RESPONDING TRIBUNAL OF
4 STATE. Under this chapter, a tribunal of this state may serve
5 as an initiating tribunal to forward proceedings to a tribunal
6 of another state, and as a responding tribunal for proceedings
7 initiated in another state or a foreign country.

8 §30-3D-204. SIMULTANEOUS PROCEEDINGS.

9 (a) A tribunal of this state may exercise
10 jurisdiction to establish a support order if the petition or
11 comparable pleading is filed after a pleading is filed in
12 another state or a foreign country only if:

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

18 (2) the contesting party timely challenges the
19 exercise of jurisdiction in the other state or the foreign
20 country; and

21 (3) if relevant, this state is the home state of the
22 child.

23 (b) A tribunal of this state may not exercise
24 jurisdiction to establish a support order if the petition or

1 comparable pleading is filed before a petition or comparable
2 pleading is filed in another state or a foreign country if:

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

7 (2) the contesting party timely challenges the
8 exercise of jurisdiction in this state; and

9 (3) if relevant, the other state or foreign country
10 is the home state of the child.

11 §30-3D-205. CONTINUING, EXCLUSIVE JURISDICTION TO
12 MODIFY CHILD-SUPPORT ORDER.

13 (a) A tribunal of this state that has issued a
14 child-support order consistent with the law of this state has
15 and shall exercise continuing, exclusive jurisdiction to
16 modify its child-support order if the order is the controlling
17 order and:

18 (1) at the time of the filing of a request for
19 modification this state is the residence of the obligor, the
20 individual obligee, or the child for whose benefit the support
21 order is issued; or

22 (2) even if this state is not the residence of the
23 obligor, the individual obligee, or the child for whose
24 benefit the support order is issued, the parties consent in a

1 record or in open court that the tribunal of this state may
2 continue to exercise jurisdiction to modify its order.

3 (b) A tribunal of this state that has issued a
4 child-support order consistent with the law of this state may
5 not exercise continuing, exclusive jurisdiction to modify the
6 order if:

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

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

14 (c) If a tribunal of another state has issued a
15 child-support order pursuant to the Uniform Interstate Family
16 Support Act or a law substantially similar to that act which
17 modifies a child-support order of a tribunal of this state,
18 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,
21 exclusive jurisdiction to modify a child-support order may
22 serve as an initiating tribunal to request a tribunal of
23 another state to modify a support order issued in that state.

24 (e) A temporary support order issued ex parte or
25 pending resolution of a jurisdictional conflict does not

1 create continuing, exclusive jurisdiction in the issuing
2 tribunal.

3 §30-3D-206. CONTINUING JURISDICTION TO ENFORCE
4 CHILD-SUPPORT ORDER.

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

9 (1) the order if the order is the controlling order
10 and has not been modified by a tribunal of another state that
11 assumed jurisdiction pursuant to the Uniform Interstate Family
12 Support Act; or

13 (2) a money judgment for arrears of support and
14 interest on the order accrued before a determination that an
15 order of a tribunal of another state is the controlling order.

16 (b) A tribunal of this state having continuing
17 jurisdiction over a support order may act as a responding
18 tribunal to enforce the order.

19 §30-3D-207. DETERMINATION OF CONTROLLING
20 CHILD-SUPPORT ORDER.

21 (a) If a proceeding is brought under this chapter
22 and only one tribunal has issued a child-support order, the
23 order of that tribunal controls and must be recognized.

24 (b) If a proceeding is brought under this chapter,
25 and two or more child-support orders have been issued by

1 tribunals of this state, another state, or a foreign country
2 with regard to the same obligor and same child, a tribunal of
3 this state having personal jurisdiction over both the obligor
4 and individual obligee shall apply the following rules and by
5 order shall determine which order controls and must be
6 recognized:

7 (1) If only one of the tribunals would have
8 continuing, exclusive jurisdiction under this chapter, the
9 order of that tribunal controls.

10 (2) If more than one of the tribunals would have
11 continuing, exclusive jurisdiction under this chapter:

12 (A) an order issued by a tribunal in the current
13 home state of the child controls; or

14 (B) if an order has not been issued in the current
15 home state of the child, the order most recently issued
16 controls.

17 (3) If none of the tribunals would have continuing,
18 exclusive jurisdiction under this chapter, the tribunal of
19 this state shall issue a child-support order, which controls.

20 (c) If two or more child-support orders have been
21 issued for the same obligor and same child, upon request of a
22 party who is an individual or that is a support enforcement
23 agency, a tribunal of this state having personal jurisdiction
24 over both the obligor and the obligee who is an individual
25 shall determine which order controls under subsection (b). The

1 request may be filed with a registration for enforcement or
2 registration for modification pursuant to Article 6, or may be
3 filed as a separate proceeding.

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

9 (e) The tribunal that issued the controlling order
10 under subsection (a), (b), or (c) has continuing jurisdiction
11 to the extent provided in Section 30-3D-205 or 30-3D-206.

12 (f) A tribunal of this state that determines by
13 order which is the controlling order under subsection (b) (1)
14 or (2) or (c), or that issues a new controlling order under
15 subsection (b) (3), shall state in that order:

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

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

19 (3) the total amount of consolidated arrears and
20 accrued interest, if any, under all of the orders after all
21 payments made are credited as provided by Section 30-3D-209.

22 (g) Within 30 days after issuance of an order
23 determining which is the controlling order, the party
24 obtaining the order shall file a certified copy of it in each
25 tribunal that issued or registered an earlier order of child

1 support. A party or support enforcement agency obtaining the
2 order that fails to file a certified copy is subject to
3 appropriate sanctions by a tribunal in which the issue of
4 failure to file arises. The failure to file does not affect
5 the validity or enforceability of the controlling order.

6 (h) An order that has been determined to be the
7 controlling order, or a judgment for consolidated arrears of
8 support and interest, if any, made pursuant to this section
9 must be recognized in proceedings under this chapter.

10 §30-3D-208. CHILD-SUPPORT ORDERS FOR TWO OR MORE
11 OBLIGEEES. In responding to registrations or petitions for
12 enforcement of two or more child-support orders in effect at
13 the same time with regard to the same obligor and different
14 individual obligees, at least one of which was issued by a
15 tribunal of another state or a foreign country, a tribunal of
16 this state shall enforce those orders in the same manner as if
17 the orders had been issued by a tribunal of this state.

18 §30-3D-209. CREDIT FOR PAYMENTS. A tribunal of this
19 state shall credit amounts collected for a particular period
20 pursuant to any child-support order against the amounts owed
21 for the same period under any other child-support order for
22 support of the same child issued by a tribunal of this state,
23 another state, or a foreign country.

24 §30-3D-210. APPLICATION OF ACT TO NONRESIDENT
25 SUBJECT TO PERSONAL JURISDICTION. A tribunal of this state

1 exercising personal jurisdiction over a nonresident in a
2 proceeding under this chapter, under other law of this state
3 relating to a support order, or recognizing a foreign support
4 order may receive evidence from outside this state pursuant to
5 Section 30-3D-316, communicate with a tribunal outside this
6 state pursuant to Section 30-3D-317, and obtain discovery
7 through a tribunal outside this state pursuant to Section
8 30-3D-318. In all other respects, Articles 3 through 6 do not
9 apply, and the tribunal shall apply the procedural and
10 substantive law of this state.

11 §30-3D-211. CONTINUING, EXCLUSIVE JURISDICTION TO
12 MODIFY SPOUSAL-SUPPORT ORDER.

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

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

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

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

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

6 ARTICLE 3. CIVIL PROVISIONS OF GENERAL APPLICATION

7 §30-3D-301. PROCEEDINGS UNDER CHAPTER.

8 (a) Except as otherwise provided in this chapter,
9 this article applies to all proceedings under this chapter.

10 (b) An individual petitioner or a support
11 enforcement agency may initiate a proceeding authorized under
12 this chapter by filing a petition in an initiating tribunal
13 for forwarding to a responding tribunal or by filing a
14 petition or a comparable pleading directly in a tribunal of
15 another state or a foreign country which has or can obtain
16 personal jurisdiction over the respondent.

17 §30-3D-302. PROCEEDING BY MINOR PARENT. A minor
18 parent, or a guardian or other legal representative of a minor
19 parent, may maintain a proceeding on behalf of or for the
20 benefit of the minor's child.

21 §30-3D-303. APPLICATION OF LAW OF STATE. Except as
22 otherwise provided in this chapter, a responding tribunal of
23 this state shall:

24 (1) apply the procedural and substantive law
25 generally applicable to similar proceedings originating in

1 this state and may exercise all powers and provide all
2 remedies available in those proceedings; and

3 (2) determine the duty of support and the amount
4 payable in accordance with the law and support guidelines of
5 this state.

6 §30-3D-304. DUTIES OF INITIATING TRIBUNAL.

7 (a) Upon the filing of a petition authorized by this
8 chapter, an initiating tribunal of this state shall forward
9 the petition and its accompanying documents:

10 (1) to the responding tribunal or appropriate
11 support enforcement agency in the responding state; or

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

16 (b) If requested by the responding tribunal, a
17 tribunal of this state shall issue a certificate or other
18 document and make findings required by the law of the
19 responding state. If the responding tribunal is in a foreign
20 country, upon request the tribunal of this state shall specify
21 the amount of support sought, convert that amount into the
22 equivalent amount in the foreign currency under applicable
23 official or market exchange rate as publicly reported, and
24 provide any other documents necessary to satisfy the
25 requirements of the responding foreign tribunal.

1 §30-3D-305. DUTIES AND POWERS OF RESPONDING
2 TRIBUNAL.

3 (a) When a responding tribunal of this state
4 receives a petition or comparable pleading from an initiating
5 tribunal or directly pursuant to Section 30-3D-301(b), it
6 shall cause the petition or pleading to be filed and notify
7 the petitioner where and when it was filed.

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

11 (1) establish or enforce a support order, modify a
12 child-support order, determine the controlling child-support
13 order, or determine parentage of a child;

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

16 (3) order income withholding;

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

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

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

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

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

5 (9) issue a bench warrant for an obligor who has
6 failed after proper notice to appear at a hearing ordered by
7 the tribunal and enter the bench warrant in any local and
8 state computer systems for criminal warrants;

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

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

13 (12) grant any other available remedy.

14 (c) A responding tribunal of this state shall
15 include in a support order issued under this chapter, or in
16 the documents accompanying the order, the calculations on
17 which the support order is based.

18 (d) A responding tribunal of this state may not
19 condition the payment of a support order issued under this
20 chapter upon compliance by a party with provisions for
21 visitation.

22 (e) If a responding tribunal of this state issues an
23 order under this chapter, the tribunal shall send a copy of
24 the order to the petitioner and the respondent and to the
25 initiating tribunal, if any.

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

7 §30-3D-306. INAPPROPRIATE TRIBUNAL. If a petition or
8 comparable pleading is received by an inappropriate tribunal
9 of this state, the tribunal shall forward the pleading and
10 accompanying documents to an appropriate tribunal of this
11 state or another state and notify the petitioner where and
12 when the pleading was sent.

13 §30-3D-307. DUTIES OF SUPPORT ENFORCEMENT AGENCY.

14 (a) A support enforcement agency of this state, upon
15 request, shall provide services to a petitioner in a
16 proceeding under this chapter.

17 (b) A support enforcement agency of this state that
18 is providing services to the petitioner shall:

19 (1) take all steps necessary to enable an
20 appropriate tribunal of this state, another state, or a
21 foreign country to obtain jurisdiction over the respondent;

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

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

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

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

12 (6) notify the petitioner if jurisdiction over the
13 respondent cannot be obtained.

14 (c) A support enforcement agency of this state that
15 requests registration of a child-support order in this state
16 for enforcement or for modification shall make reasonable
17 efforts:

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

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

24 (d) A support enforcement agency of this state that
25 requests registration and enforcement of a support order,

1 arrears, or judgment stated in a foreign currency shall
2 convert the amounts stated in the foreign currency into the
3 equivalent amounts in dollars under the applicable official or
4 market exchange rate as publicly reported.

5 (e) A support enforcement agency of this state shall
6 request a tribunal of this state to issue a child-support
7 order and an income-withholding order that redirect payment of
8 current support, arrears, and interest if requested to do so
9 by a support enforcement agency of another state pursuant to
10 Section 30-3D-319.

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

16 §30-3D-308. DUTY OF ATTORNEY GENERAL.

17 (a) If the Attorney General determines that the
18 support enforcement agency is neglecting or refusing to
19 provide services to an individual, the Attorney General may
20 order the agency to perform its duties under this chapter or
21 may provide those services directly to the individual.

22 (b) The Attorney General may determine that a
23 foreign country has established a reciprocal arrangement for
24 child support with this state and take appropriate action for
25 notification of the determination.

1 §30-3D-309. PRIVATE COUNSEL. An individual may
2 employ private counsel to represent the individual in
3 proceeding authorized by this chapter.

4 §30-3D-310. DUTIES OF THE DEPARTMENT OF HUMAN
5 RESOURCES.

6 (a) The Department of Human Resources is the state
7 information agency under this chapter.

8 (b) The state information agency shall:

9 (1) compile and maintain a current list, including
10 addresses, of the tribunals in this state which have
11 jurisdiction under this chapter and any support enforcement
12 agencies in this state and transmit a copy to the state
13 information agency of every other state;

14 (2) maintain a register of names and addresses of
15 tribunals and support enforcement agencies received from other
16 states;

17 (3) forward to the appropriate tribunal in the
18 county in this state in which the obligee who is an individual
19 or the obligor resides, or in which the obligor's property is
20 believed to be located, all documents concerning a proceeding
21 under this chapter received from another state or a foreign
22 country; and

23 (4) obtain information concerning the location of
24 the obligor and the obligor's property within this state not
25 exempt from execution, by such means as postal verification

1 and federal or state locator services, examination of
2 telephone directories, requests for the obligor's address from
3 employers, and examination of governmental records, including,
4 to the extent not prohibited by other law, those relating to
5 real property, vital statistics, law enforcement, taxation,
6 motor vehicles, driver's licenses, and Social Security.

7 §30-3D-311. PLEADINGS AND ACCOMPANYING DOCUMENTS.

8 (a) In a proceeding under this chapter, a petitioner
9 seeking to establish a support order, to determine parentage
10 of a child, or to register and modify a support order of a
11 tribunal of another state or a foreign country must file a
12 petition. Unless otherwise ordered under Section 30-3D-312,
13 the petition or accompanying documents must provide, so far as
14 known, the name, residential address, and Social Security
15 numbers of the obligor and the obligee or the parent and
16 alleged parent, and the name, sex, residential address, Social
17 Security number, and date of birth of each child for whose
18 benefit support is sought or whose parentage is to be
19 determined. Unless filed at the time of registration, the
20 petition must be accompanied by a copy of any support order
21 known to have been issued by another tribunal. The petition
22 may include any other information that may assist in locating
23 or identifying the respondent.

24 (b) The petition must specify the relief sought. The
25 petition and accompanying documents must conform substantially

1 with the requirements imposed by the forms mandated by federal
2 law for use in cases filed by a support enforcement agency.

3 §30-3D-312. NONDISCLOSURE OF INFORMATION IN
4 EXCEPTIONAL CIRCUMSTANCES. If a party alleges in an affidavit
5 or a pleading under oath that the health, safety, or liberty
6 of a party or child would be jeopardized by disclosure of
7 specific identifying information, that information must be
8 sealed and may not be disclosed to the other party or the
9 public. After a hearing in which a tribunal takes into
10 consideration the health, safety, or liberty of the party or
11 child, the tribunal may order disclosure of information that
12 the tribunal determines to be in the interest of justice.

13 §30-3D-313. COSTS AND FEES.

14 (a) The petitioner may not be required to pay a
15 filing fee or other costs.

16 (b) If an obligee prevails, a responding tribunal of
17 this state may assess against an obligor filing fees,
18 reasonable attorney's fees, other costs, and necessary travel
19 and other reasonable expenses incurred by the obligee and the
20 obligee's witnesses. The tribunal may not assess fees, costs,
21 or expenses against the obligee or the support enforcement
22 agency of either the initiating or responding state or foreign
23 country, except as provided by other law. Attorney's fees may
24 be taxed as costs, and may be ordered paid directly to the
25 attorney, who may enforce the order in the attorney's own

1 name. Payment of support owed to the obligee has priority over
2 fees, costs, and expenses.

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

9 §30-3D-314. LIMITED IMMUNITY OF PETITIONER.

10 (a) Participation by a petitioner in a proceeding
11 under this chapter before a responding tribunal, whether in
12 person, by private attorney, or through services provided by
13 the support enforcement agency, does not confer personal
14 jurisdiction over the petitioner in another proceeding.

15 (b) A petitioner is not amenable to service of civil
16 process while physically present in this state to participate
17 in a proceeding under this chapter.

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

23 §30-3D-315. NONPARENTAGE AS DEFENSE.

1 A party whose parentage of a child has been
2 previously determined by or pursuant to law may not plead
3 nonparentage as a defense to a proceeding under this chapter.

4 §30-3D-316. SPECIAL RULES OF EVIDENCE AND PROCEDURE.

5 (a) The physical presence of a nonresident party who
6 is an individual in a tribunal of this state is not required
7 for the establishment, enforcement, or modification of a
8 support order or the rendition of a judgment determining
9 parentage of a child.

10 (b) An affidavit, a document substantially complying
11 with federally mandated forms, or a document incorporated by
12 reference in any of them, which would not be excluded under
13 the hearsay rule if given in person, is admissible in evidence
14 if given under penalty of perjury by a party or witness
15 residing outside this state.

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

21 (d) Copies of bills for testing for parentage of a
22 child, and for prenatal and postnatal health care of the
23 mother and child, furnished to the adverse party at least 30
24 days before trial, are admissible in evidence to prove the

1 amount of the charges billed and that the charges were
2 reasonable, necessary, and customary.

3 (e) Documentary evidence transmitted from outside
4 this state to a tribunal of this state by telephone,
5 telecopier, or other electronic means that do not provide an
6 original record may not be excluded from evidence on an
7 objection based on the means of transmission.

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

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

20 (h) A privilege against disclosure of communications
21 between spouses does not apply in a proceeding under this
22 chapter.

23 (i) The defense of immunity based on the
24 relationship of husband and wife or parent and child does not
25 apply in a proceeding under this chapter.

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

4 §30-3D-317. COMMUNICATIONS BETWEEN TRIBUNALS.

5 A tribunal of this state may communicate with a
6 tribunal outside this state in a record or by telephone,
7 electronic mail, or other means, to obtain information
8 concerning the laws, the legal effect of a judgment, decree,
9 or order of that tribunal, and the status of a proceeding. A
10 tribunal of this state may furnish similar information by
11 similar means to a tribunal outside this state.

12 §30-3D-318. ASSISTANCE WITH DISCOVERY.

13 A tribunal of this state may:

14 (1) request a tribunal outside this state to assist
15 in obtaining discovery; and

16 (2) upon request, compel a person over which it has
17 jurisdiction to respond to a discovery order issued by a
18 tribunal outside this state.

19 §30-3D-319. RECEIPT AND DISBURSEMENT OF PAYMENTS.

20 (a) A support enforcement agency or tribunal of this
21 state shall disburse promptly any amounts received pursuant to
22 a support order, as directed by the order. The agency or
23 tribunal shall furnish to a requesting party or tribunal of
24 another state or a foreign country a certified statement by

1 the custodian of the record of the amounts and dates of all
2 payments received.

3 (b) If neither the obligor, nor the obligee who is
4 an individual, nor the child resides in this state, upon
5 request from the support enforcement agency of this state or
6 another state, the support enforcement agency or a tribunal of
7 this state shall:

8 (1) direct that the support payment be made to the
9 support enforcement agency in the state in which the obligee
10 is receiving services; and

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

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

20 ARTICLE 4. ESTABLISHMENT OF SUPPORT ORDER OR
21 DETERMINATION OF PARENTAGE

22 §30-3D-401. ESTABLISHMENT OF SUPPORT ORDER.

23 (a) If a support order entitled to recognition under
24 this chapter has not been issued, a responding tribunal of

1 this state with personal jurisdiction over the parties may
2 issue a support order if:

3 (1) the individual seeking the order resides outside
4 this state; or

5 (2) the support enforcement agency seeking the order
6 is located outside this state.

7 (b) The tribunal may issue a temporary child-support
8 order if the tribunal determines that such an order is
9 appropriate and the individual ordered to pay is:

10 (1) a presumed father of the child;

11 (2) petitioning to have his paternity adjudicated;

12 (3) identified as the father of the child through
13 genetic testing;

14 (4) an alleged father who has declined to submit to
15 genetic testing;

16 (5) shown by clear and convincing evidence to be the
17 father of the child;

18 (6) an acknowledged father as provided by Section
19 26-17-101 et seq.;

20 (7) the mother of the child; or

21 (8) an individual who has been ordered to pay child
22 support in a previous proceeding and the order has not been
23 reversed or vacated.

24 (c) Upon finding, after notice and opportunity to be
25 heard, that an obligor owes a duty of support, the tribunal

1 shall issue a support order directed to the obligor and may
2 issue other orders pursuant to Section 30-3D-305.

3 §30-3D-402. PROCEEDING TO DETERMINE PARENTAGE.

4 A tribunal of this state authorized to determine
5 parentage of a child may serve as a responding tribunal in a
6 proceeding to determine parentage of a child brought under
7 this chapter or a law or procedure substantially similar to
8 this chapter.

9 ARTICLE 5. ENFORCEMENT OF SUPPORT ORDER WITHOUT
10 REGISTRATION

11 §30-3D-501. EMPLOYER'S RECEIPT OF INCOME-WITHHOLDING
12 ORDER OF ANOTHER STATE. An income-withholding order issued in
13 another state may be sent by or on behalf of the obligee, or
14 by the support enforcement agency, to the person defined as
15 the obligor's employer under the income-withholding law of
16 this state without first filing a petition or comparable
17 pleading or registering the order with a tribunal of this
18 state.

19 §30-3D-502. EMPLOYER'S COMPLIANCE WITH
20 INCOME-WITHHOLDING ORDER OF ANOTHER STATE.

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

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

4 (c) Except as otherwise provided in subsection (d)
5 and Section 30-3D-503, the employer shall withhold and
6 distribute the funds as directed in the withholding order by
7 complying with terms of the order which specify:

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

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

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

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

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

21 (d) An employer shall comply with the law of the
22 state of the obligor's principal place of employment for
23 withholding from income with respect to:

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

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

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

6 §30-3D-503. EMPLOYER'S COMPLIANCE WITH TWO OR MORE
7 INCOME-WITHHOLDING ORDERS. If an obligor's employer receives
8 two or more income-withholding orders with respect to the
9 earnings of the same obligor, the employer satisfies the terms
10 of the orders if the employer complies with the law of the
11 state of the obligor's principal place of employment to
12 establish the priorities for withholding and allocating income
13 withheld for two or more child-support obligees.

14 §30-3D-504. IMMUNITY FROM CIVIL LIABILITY. An
15 employer that complies with an income-withholding order issued
16 in another state in accordance with this article is not
17 subject to civil liability to an individual or agency with
18 regard to the employer's withholding of child support from the
19 obligor's income.

20 §30-3D-505. PENALTIES FOR NONCOMPLIANCE. An employer
21 that willfully fails to comply with an income-withholding
22 order issued in another state and received for enforcement is
23 subject to the same penalties that may be imposed for
24 noncompliance with an order issued by a tribunal of this
25 state.

1 §30-3D-506. CONTEST BY OBLIGOR.

2 (a) An obligor may contest the validity or
3 enforcement of an income-withholding order issued in another
4 state and received directly by an employer in this state by
5 registering the order in a tribunal of this state and filing a
6 contest to that order as provided in Article 6, or otherwise
7 contesting the order in the same manner as if the order had
8 been issued by a tribunal of this state.

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

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

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

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

17 §30-3D-507. ADMINISTRATIVE ENFORCEMENT OF ORDERS.

18 (a) A party or support enforcement agency seeking to
19 enforce a support order or an income-withholding order, or
20 both, issued in another state or a foreign support order may
21 send the documents required for registering the order to a
22 support enforcement agency of this state.

23 (b) Upon receipt of the documents, the support
24 enforcement agency, without initially seeking to register the
25 order, shall consider and, if appropriate, use any

1 administrative procedure authorized by the law of this state
2 to enforce a support order or an income-withholding order, or
3 both. If the obligor does not contest administrative
4 enforcement, the order need not be registered. If the obligor
5 contests the validity or administrative enforcement of the
6 order, the support enforcement agency shall register the order
7 pursuant to this chapter.

8 ARTICLE 6. REGISTRATION, ENFORCEMENT, AND
9 MODIFICATION OF SUPPORT ORDER

10 PART 1. REGISTRATION FOR ENFORCEMENT OF SUPPORT
11 ORDER

12 §30-3D-601. REGISTRATION OF ORDER FOR ENFORCEMENT.

13 A support order or income-withholding order issued
14 in another state or a foreign support order may be registered
15 in this state for enforcement.

16 §30-3D-602. PROCEDURE TO REGISTER ORDER FOR
17 ENFORCEMENT.

18 (a) Except as otherwise provided in Section
19 30-3D-706, a support order or income-withholding order of
20 another state or a foreign support order may be registered in
21 this state by sending the following records to the appropriate
22 tribunal in this state:

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

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

4 (3) a sworn statement by the person requesting
5 registration or a certified statement by the custodian of the
6 records showing the amount of any arrearage;

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

8 (A) the obligor's address and Social Security
9 number;

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

12 (C) a description and the location of property of
13 the obligor in this state not exempt from execution; and

14 (5) except as otherwise provided in Section
15 30-3D-312, the name and address of the obligee and, if
16 applicable, the person to whom support payments are to be
17 remitted.

18 (b) On receipt of a request for registration, the
19 registering tribunal shall cause the order to be filed as an
20 order of a tribunal of another state or a foreign support
21 order, together with one copy of the documents and
22 information, regardless of their form.

23 (c) A petition or comparable pleading seeking a
24 remedy that must be affirmatively sought under other law of
25 this state may be filed at the same time as the request for

1 registration or later. The pleading must specify the grounds
2 for the remedy sought.

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

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

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

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

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

18 §30-3D-603. EFFECT OF REGISTRATION FOR ENFORCEMENT.

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

23 (b) A registered support order issued in another
24 state or a foreign country is enforceable in the same manner

1 and is subject to the same procedures as an order issued by a
2 tribunal of this state.

3 (c) Except as otherwise provided in this chapter, a
4 tribunal of this state shall recognize and enforce, but may
5 not modify, a registered support order if the issuing tribunal
6 had jurisdiction.

7 §30-3D-604. CHOICE OF LAW.

8 (a) Except as otherwise provided in subsection (d),
9 the law of the issuing state or foreign country governs:

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

12 (2) the computation and payment of arrearages and
13 accrual of interest on the arrearages under the support order;
14 and

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

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

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

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

8 PART 2. CONTEST OF VALIDITY OR ENFORCEMENT

9 §30-3D-605. NOTICE OF REGISTRATION OF ORDER.

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

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

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

20 (2) that a hearing to contest the validity or
21 enforcement of the registered order must be requested within
22 30 days after notice unless the registered order is under
23 Section 30-3D-707;

24 (3) that failure to contest the validity or
25 enforcement of the registered order in a timely manner will

1 result in confirmation of the order and enforcement of the
2 order and the alleged arrearages; and

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

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

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

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

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

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

18 (d) Upon registration of an income-withholding order
19 for enforcement, the support enforcement agency or the
20 registering tribunal shall notify the obligor's employer
21 pursuant to the income-withholding law of this state.

22 §30-3D-606. PROCEDURE TO CONTEST VALIDITY OR
23 ENFORCEMENT OF REGISTERED SUPPORT ORDER.

24 (a) A nonregistering party seeking to contest the
25 validity or enforcement of a registered support order in this

1 state shall request a hearing within the time required by
2 Section 30-3D-605. The nonregistering party may seek to vacate
3 the registration, to assert any defense to an allegation of
4 noncompliance with the registered order, or to contest the
5 remedies being sought or the amount of any alleged arrearages
6 pursuant to Section 30-3D-607.

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

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

15 §30-3D-607. CONTEST OF REGISTRATION OR ENFORCEMENT.

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

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

22 (2) the order was obtained by fraud;

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

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

3 (5) there is a defense under the law of this state
4 to the remedy sought;

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

6 (7) the statute of limitation under Section
7 30-3D-604 precludes enforcement of some or all of the alleged
8 arrearages; or

9 (8) the alleged controlling order is not the
10 controlling order.

11 (b) If a party presents evidence establishing a full
12 or partial defense under subsection (a), a tribunal may stay
13 enforcement of a registered support order, continue the
14 proceeding to permit production of additional relevant
15 evidence, and issue other appropriate orders. An uncontested
16 portion of the registered support order may be enforced by all
17 remedies available under the law of this state.

18 (c) If the contesting party does not establish a
19 defense under subsection (a) to the validity or enforcement of
20 a registered support order, the registering tribunal shall
21 issue an order confirming the order.

22 §30-3D-608. CONFIRMED ORDER. Confirmation of a
23 registered support order, whether by operation of law or after
24 notice and hearing, precludes further contest of the order

1 with respect to any matter that could have been asserted at
2 the time of registration.

3 PART 3. REGISTRATION AND MODIFICATION OF
4 CHILD-SUPPORT ORDER OF ANOTHER STATE

5 §30-3D-609. PROCEDURE TO REGISTER CHILD-SUPPORT
6 ORDER OF ANOTHER STATE FOR MODIFICATION. A party or support
7 enforcement agency seeking to modify, or to modify and
8 enforce, a child-support order issued in another state shall
9 register that order in this state in the same manner provided
10 in Sections 30-3D-601 through 30-3D-608 if the order has not
11 been registered. A petition for modification may be filed at
12 the same time as a request for registration, or later. The
13 pleading must specify the grounds for modification.

14 §30-3D-610. EFFECT OF REGISTRATION FOR MODIFICATION.
15 A tribunal of this state may enforce a child-support order of
16 another state registered for purposes of modification, in the
17 same manner as if the order had been issued by a tribunal of
18 this state, but the registered support order may be modified
19 only if the requirements of Section 30-3D-611 or Section
20 30-3D-613 have been met.

21 §30-3D-611. MODIFICATION OF CHILD-SUPPORT ORDER OF
22 ANOTHER STATE.

23 (a) If Section 30-3D-613 does not apply, upon
24 petition a tribunal of this state may modify a child-support

1 order issued in another state which is registered in this
2 state if, after notice and hearing, the tribunal finds that:

3 (1) the following requirements are met:

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

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

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

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

17 (b) Modification of a registered child-support order
18 is subject to the same requirements, procedures, and defenses
19 that apply to the modification of an order issued by a
20 tribunal of this state and the order may be enforced and
21 satisfied in the same manner.

22 (c) A tribunal of this state may not modify any
23 aspect of a child-support order that may not be modified under
24 the law of the issuing state, including the duration of the
25 obligation of support. If two or more tribunals have issued

1 child-support orders for the same obligor and same child, the
2 order that controls and must be so recognized under Section
3 30-3D-207 establishes the aspects of the support order which
4 are nonmodifiable.

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

11 (e) On the issuance of an order by a tribunal of
12 this state modifying a child-support order issued in another
13 state, the tribunal of this state becomes the tribunal having
14 continuing, exclusive jurisdiction.

15 (f) Notwithstanding subsections (a) through (e) and
16 Section 30-3D-201(b), a tribunal of this state retains
17 jurisdiction to modify an order issued by a tribunal of this
18 state if:

- 19 (1) one party resides in another state; and
20 (2) the other party resides outside the United
21 States.

22 §30-3D-612. RECOGNITION OF ORDER MODIFIED IN ANOTHER
23 STATE.

24 If a child-support order issued by a tribunal of
25 this state is modified by a tribunal of another state which

1 assumed jurisdiction pursuant to the Uniform Interstate Family
2 Support Act, a tribunal of this state:

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

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

8 (3) shall recognize the modifying order of the other
9 state, upon registration, for the purpose of enforcement.

10 §30-3D-613. JURISDICTION TO MODIFY CHILD-SUPPORT
11 ORDER OF ANOTHER STATE WHEN INDIVIDUAL PARTIES RESIDE IN THIS
12 STATE.

13 (a) If all of the parties who are individuals reside
14 in this state and the child does not reside in the issuing
15 state, a tribunal of this state has jurisdiction to enforce
16 and to modify the issuing state's child-support order in a
17 proceeding to register that order.

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

23 §30-3D-614. NOTICE TO ISSUING TRIBUNAL OF
24 MODIFICATION. Within 30 days after issuance of a modified
25 child-support order, the party obtaining the modification

1 shall file a certified copy of the order with the issuing
2 tribunal that had continuing, exclusive jurisdiction over the
3 earlier order, and in each tribunal in which the party knows
4 the earlier order has been registered. A party who obtains the
5 order and fails to file a certified copy is subject to
6 appropriate sanctions by a tribunal in which the issue of
7 failure to file arises. The failure to file does not affect
8 the validity or enforceability of the modified order of the
9 new tribunal having continuing, exclusive jurisdiction.

10 PART 4. REGISTRATION AND MODIFICATION OF FOREIGN
11 CHILD-SUPPORT ORDER

12 §30-3D-615. JURISDICTION TO MODIFY CHILD-SUPPORT
13 ORDER OF FOREIGN COUNTRY.

14 (a) Except as otherwise provided in Section
15 30-3D-711, if a foreign country lacks or refuses to exercise
16 jurisdiction to modify its child-support order pursuant to its
17 laws, a tribunal of this state may assume jurisdiction to
18 modify the child-support order and bind all individuals
19 subject to the personal jurisdiction of the tribunal whether
20 the consent to modification of a child-support order otherwise
21 required of the individual pursuant to Section 30-3D-611 has
22 been given or whether the individual seeking modification is a
23 resident of this state or of the foreign country.

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

4 §30-3D-616. PROCEDURE TO REGISTER CHILD-SUPPORT
5 ORDER OF FOREIGN COUNTRY FOR MODIFICATION. A party or support
6 enforcement agency seeking to modify, or to modify and
7 enforce, a foreign child-support order not under the
8 Convention may register that order in this state under
9 Sections 30-3D-601 through 30-3D-608 if the order has not been
10 registered. A petition for modification may be filed at the
11 same time as a request for registration, or at another time.
12 The petition must specify the grounds for modification.

13 ARTICLE 7. SUPPORT PROCEEDING UNDER CONVENTION

14 §30-3D-701. DEFINITIONS.

15 In this article:

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

20 (2) "Central authority" means the entity designated
21 by the United States or a foreign country described in Section
22 30-3D-102(5)(D) to perform the functions specified in the
23 Convention.

1 (3) "Convention support order" means a support order
2 of a tribunal of a foreign country described in Section 30-3D-102(5)(D).

3 (4) "Direct request" means a petition filed by an
4 individual in a tribunal of this state in a proceeding
5 involving an obligee, obligor, or child residing outside the
6 United States.

7 (5) "Foreign central authority" means the entity
8 designated by a foreign country described in Section
9 30-3D-102(5)(D) to perform the functions specified in the
10 Convention.

11 (6) "Foreign support agreement":

12 (A) means an agreement for support in a record that:

13 (i) is enforceable as a support order in the country
14 of origin;

15 (ii) has been:

16 (I) formally drawn up or registered as an authentic
17 instrument by a foreign tribunal; or

18 (II) authenticated by, or concluded, registered, or
19 filed with a foreign tribunal; and

20 (iii) may be reviewed and modified by a foreign
21 tribunal; and

22 (B) includes a maintenance arrangement or authentic
23 instrument under the Convention.

1 (7) "United States central authority" means the
2 Secretary of the United States Department of Health and Human
3 Services.

4 §30-3D-702. APPLICABILITY. This article applies only
5 to a support proceeding under the Convention. In such a
6 proceeding, if a provision of this article is inconsistent
7 with Articles 1 through 6, this article controls.

8 §30-3D-703. RELATIONSHIP OF THE DEPARTMENT OF HUMAN
9 RESOURCES TO UNITED STATES CENTRAL AUTHORITY. The Department
10 of Human Resources is recognized as the agency designated by
11 the United States central authority to perform specific
12 functions under the Convention.

13 §30-3D-704. INITIATION BY THE DEPARTMENT OF HUMAN
14 RESOURCES OF SUPPORT PROCEEDING UNDER CONVENTION.

15 (a) In a support proceeding under this article, the
16 Department of Human Resources shall:

17 (1) transmit and receive applications; and

18 (2) initiate or facilitate the institution of a
19 proceeding regarding an application in a tribunal of this
20 state.

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

23 (1) recognition or recognition and enforcement of a
24 foreign support order;

1 (2) enforcement of a support order issued or
2 recognized in this state;

3 (3) establishment of a support order if there is no
4 existing order, including, if necessary, determination of
5 parentage of a child;

6 (4) establishment of a support order if recognition
7 of a foreign support order is refused under Section
8 30-3D-708(b) (2), (4), or (9);

9 (5) modification of a support order of a tribunal of
10 this state; and

11 (6) modification of a support order of a tribunal of
12 another state or a foreign country.

13 (c) The following support proceedings are available
14 under the Convention to an obligor against which there is an
15 existing support order:

16 (1) recognition of an order suspending or limiting
17 enforcement of an existing support order of a tribunal of this
18 state;

19 (2) modification of a support order of a tribunal of
20 this state; and

21 (3) modification of a support order of a tribunal of
22 another state or a foreign country.

23 (d) A tribunal of this state may not require
24 security, bond, or deposit, however described, to guarantee

1 the payment of costs and expenses in proceedings under the
2 Convention.

3 §30-3D-705. DIRECT REQUEST.

4 (a) A petitioner may file a direct request seeking
5 establishment or modification of a support order or
6 determination of parentage of a child. In the proceeding, the
7 law of this state applies.

8 (b) A petitioner may file a direct request seeking
9 recognition and enforcement of a support order or support
10 agreement. In the proceeding, Sections 30-3D-706 through
11 30-3D-713 apply.

12 (c) In a direct request for recognition and
13 enforcement of a Convention support order or foreign support
14 agreement:

15 (1) a security, bond, or deposit is not required to
16 guarantee the payment of costs and expenses; and

17 (2) an obligee or obligor that in the issuing
18 country has benefited from free legal assistance is entitled
19 to benefit, at least to the same extent, from any free legal
20 assistance provided for by the law of this state under the
21 same circumstances.

22 (d) A petitioner filing a direct request is not
23 entitled to assistance from the Department of Human Resources.

24 (e) This article does not prevent the application of
25 laws of this state that provide simplified, more expeditious

1 rules regarding a direct request for recognition and
2 enforcement of a foreign support order or foreign support
3 agreement.

4 §30-3D-706. REGISTRATION OF CONVENTION SUPPORT
5 ORDER.

6 (a) Except as otherwise provided in this article, a
7 party who is an individual or a support enforcement agency
8 seeking recognition of a Convention support order shall
9 register the order in this state as provided in Article 6.

10 (b) Notwithstanding Sections 30-3D-311 and
11 30-3D-602(a), a request for registration of a Convention
12 support order must be accompanied by:

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

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

19 (3) if the respondent did not appear and was not
20 represented in the proceedings in the issuing country, a
21 record attesting, as appropriate, either that the respondent
22 had proper notice of the proceedings and an opportunity to be
23 heard or that the respondent had proper notice of the support
24 order and an opportunity to be heard in a challenge or appeal
25 on fact or law before a tribunal;

1 (4) a record showing the amount of arrears, if any,
2 and the date the amount was calculated;

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

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

10 (c) A request for registration of a Convention
11 support order may seek recognition and partial enforcement of
12 the order.

13 (d) A tribunal of this state may vacate the
14 registration of a Convention support order without the filing
15 of a contest under Section 30-3D-707 only if, acting on its
16 own motion, the tribunal finds that recognition and
17 enforcement of the order would be manifestly incompatible with
18 public policy.

19 (e) The tribunal shall promptly notify the parties
20 of the registration or the order vacating the registration of
21 a Convention support order.

22 §30-3D-707. CONTEST OF REGISTERED CONVENTION SUPPORT
23 ORDER.

1 (a) Except as otherwise provided in this article,
2 Sections 30-3D-605 through 30-3D-608 apply to a contest of a
3 registered Convention support order.

4 (b) A party contesting a registered Convention
5 support order shall file a contest not later than 30 days
6 after notice of the registration, but if the contesting party
7 does not reside in the United States, the contest must be
8 filed not later than 60 days after notice of the registration.

9 (c) If the nonregistering party fails to contest the
10 registered Convention support order by the time specified in
11 subsection (b), the order is enforceable.

12 (d) A contest of a registered Convention support
13 order may be based only on grounds set forth in Section
14 30-3D-708. The contesting party bears the burden of proof.

15 (e) In a contest of a registered Convention support
16 order, a tribunal of this state:

17 (1) is bound by the findings of fact on which the
18 foreign tribunal based its jurisdiction; and

19 (2) may not review the merits of the order.

20 (f) A tribunal of this state deciding a contest of a
21 registered Convention support order shall promptly notify the
22 parties of its decision.

23 (g) A challenge or appeal, if any, does not stay the
24 enforcement of a Convention support order unless there are
25 exceptional circumstances.

1 §30-3D-708. RECOGNITION AND ENFORCEMENT OF
2 REGISTERED CONVENTION SUPPORT ORDER.

3 (a) Except as otherwise provided in subsection (b),
4 a tribunal of this state shall recognize and enforce a
5 registered Convention support order.

6 (b) The following grounds are the only grounds on
7 which a tribunal of this state may refuse recognition and
8 enforcement of a registered Convention support order:

9 (1) recognition and enforcement of the order is
10 manifestly incompatible with public policy, including the
11 failure of the issuing tribunal to observe minimum standards
12 of due process, which include notice and an opportunity to be
13 heard;

14 (2) the issuing tribunal lacked personal
15 jurisdiction consistent with Section 30-3D-201;

16 (3) the order is not enforceable in the issuing
17 country;

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

20 (5) a record transmitted in accordance with Section
21 30-3D-706 lacks authenticity or integrity;

22 (6) a proceeding between the same parties and having
23 the same purpose is pending before a tribunal of this state
24 and that proceeding was the first to be filed;

1 (7) the order is incompatible with a more recent
2 support order involving the same parties and having the same
3 purpose if the more recent support order is entitled to
4 recognition and enforcement under this chapter in this state;

5 (8) payment, to the extent alleged arrears have been
6 paid in whole or in part;

7 (9) in a case in which the respondent neither
8 appeared nor was represented in the proceeding in the issuing
9 foreign country:

10 (A) if the law of that country provides for prior
11 notice of proceedings, the respondent did not have proper
12 notice of the proceedings and an opportunity to be heard; or

13 (B) if the law of that country does not provide for
14 prior notice of the proceedings, the respondent did not have
15 proper notice of the order and an opportunity to be heard in a
16 challenge or appeal on fact or law before a tribunal; or

17 (10) the order was made in violation of Section
18 30-3D-711.

19 (c) If a tribunal of this state does not recognize a
20 Convention support order under subsection (b) (2), (4), or (9):

21 (1) the tribunal may not dismiss the proceeding
22 without allowing a reasonable time for a party to request the
23 establishment of a new Convention support order; and

24 (2) the Department of Human Resources shall take all
25 appropriate measures to request a child-support order for the

1 obligee if the application for recognition and enforcement was
2 received under Section 30-3D-704.

3 §30-3D-709. PARTIAL ENFORCEMENT. If a tribunal of
4 this state does not recognize and enforce a Convention support
5 order in its entirety, it shall enforce any severable part of
6 the order. An application or direct request may seek
7 recognition and partial enforcement of a Convention support
8 order.

9 §30-3D-710. FOREIGN SUPPORT AGREEMENT.

10 (a) Except as otherwise provided in subsections (c)
11 and (d), a tribunal of this state shall recognize and enforce
12 a foreign support agreement registered in this state.

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

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

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

21 (c) A tribunal of this state may vacate the
22 registration of a foreign support agreement only if, acting on
23 its own motion, the tribunal finds that recognition and
24 enforcement would be manifestly incompatible with public
25 policy.

1 (d) In a contest of a foreign support agreement, a
2 tribunal of this state may refuse recognition and enforcement
3 of the agreement if it finds:

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

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

8 (3) the agreement is incompatible with a support
9 order involving the same parties and having the same purpose
10 in this state, another state, or a foreign country if the
11 support order is entitled to recognition and enforcement under
12 this chapter in this state; or

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

15 (e) A proceeding for recognition and enforcement of
16 a foreign support agreement must be suspended during the
17 pendency of a challenge to or appeal of the agreement before a
18 tribunal of another state or a foreign country.

19 §30-3D-711. MODIFICATION OF CONVENTION CHILD-SUPPORT
20 ORDER.

21 (a) A tribunal of this state may not modify a
22 Convention child-support order if the obligee remains a
23 resident of the foreign country where the support order was
24 issued unless:

1 (1) the obligee submits to the jurisdiction of a
2 tribunal of this state, either expressly or by defending on
3 the merits of the case without objecting to the jurisdiction
4 at the first available opportunity; or

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

8 (b) If a tribunal of this state does not modify a
9 Convention child-support order because the order is not
10 recognized in this state, Section 30-3D-708(c) applies.

11 §30-3D-712. PERSONAL INFORMATION; LIMIT ON USE.
12 Personal information gathered or transmitted under this
13 article may be used only for the purposes for which it was
14 gathered or transmitted.

15 §30-3D-713. RECORD IN ORIGINAL LANGUAGE; ENGLISH
16 TRANSLATION. A record filed with a tribunal of this state
17 under this article must be in the original language and, if
18 not in English, must be accompanied by an English translation.

19 ARTICLE 8. INTERSTATE RENDITION

20 §30-3D-801. GROUNDS FOR RENDITION.

21 (a) For purposes of this article, "governor"
22 includes an individual performing the functions of governor or
23 the executive authority of a state covered by this chapter.

24 (b) The governor of this state may:

1 (1) demand that the governor of another state
2 surrender an individual found in the other state who is
3 charged criminally in this state with having failed to provide
4 for the support of an obligee; or

5 (2) on the demand of the governor of another state,
6 surrender an individual found in this state who is charged
7 criminally in the other state with having failed to provide
8 for the support of an obligee.

9 (c) A provision for extradition of individuals not
10 inconsistent with this chapter applies to the demand even if
11 the individual whose surrender is demanded was not in the
12 demanding state when the crime was allegedly committed and has
13 not fled therefrom.

14 §30-3D-802. CONDITIONS OF RENDITION.

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

22 (b) If, under this chapter or a law substantially
23 similar to this chapter, the governor of another state makes a
24 demand that the governor of this state surrender an individual
25 charged criminally in that state with having failed to provide

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

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

15 ARTICLE 9. MISCELLANEOUS PROVISIONS

16 §30-3D-901. UNIFORMITY OF APPLICATION AND
17 CONSTRUCTION. In applying and construing this uniform act,
18 consideration must be given to the need to promote uniformity
19 of the law with respect to its subject matter among states
20 that enact it.

21 §30-3D-902. TRANSITIONAL PROVISION. This chapter
22 applies to proceedings begun on or after the effective date of
23 this chapter to establish a support order or determine
24 parentage of a child or to register, recognize, enforce, or

1 modify a prior support order, determination, or agreement,
2 whenever issued or entered.

3 Section 2. Chapter 3A (commencing with Section
4 30-3A-101) of Title 30 of the Code of Alabama 1975, is
5 repealed.

6 Section 3. This act shall become effective
7 immediately following its passage and approval by the
8 Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB268

Senate 14-APR-15

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris
Secretary

House of Representatives
Passed: 21-MAY-15

By: Senator Ward