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OFFICE WEST VIRGINIA
SECRETARY OF STATE

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ENROLLED

Senate Bill No. 510

(BY SENATORS FERNS)

[PASSED MARCH 13, 2015; IN EFFECT NINETY DAYS FROM PASSAGE.]

SB510

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(BY SENATOR FERNS)

[Passed March 13, 2015; in effect ninety days from passage.]

AN ACT to amend and reenact §48-16-102, §48-16-103, §48-16-104, §48-16-201, §48-16-203, §48-16-204, §48-16-205, §48-16-206, §48-16-207, §48-16-208, §48-16-209, §48-16-210, §48-16-211, §48-16-301, §48-16-304, §48-16-305, §48-16-307, §48-16-310, §48-16-311, §48-16-313, §48-16-314, §48-16-316, §48-16-317, §48-16-318, §48-16-319, §48-16-401, §48-16-501, §48-16-502, §48-16-504, §48-16-505, §48-16-506, §48-16-507, §48-16-601, §48-16-602, §48-16-603, §48-16-604, §48-16-605, §48-16-606, §48-16-607, §48-16-608, §48-16-609, §48-16-610, §48-16-611, §48-16-613, §48-16-614, §48-16-615, §48-16-701, §48-16-801, §48-16-802, §48-16-902 and §48-16-903 of the Code of West Virginia, 1931, as amended; and to amend said code by adding thereto fifteen new sections, designated §48-16-105, §48-16-402, §48-16-616, §48-16-702, §48-16-703, §48-16-704, §48-16-705, §48-16-706, §48-16-707, §48-16-708, §48-16-709, §48-16-710, §48-16-711, §48-16-712 and §48-16-713, all relating to amending the Uniform Interstate Family Support Act; implementing language for the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance; establishing uniform procedures for processing international child support cases; improving enforcement of American child

support orders abroad; ensuring that children residing in the United States will receive the financial support due from parents, wherever the parents reside; providing guidelines and procedures for registration, enforcement and modification of foreign support orders from countries that are parties to the convention; providing that a support order from a country that has acceded to the convention must be registered immediately unless a tribunal in the state where the registration is sought determines that the language of the order goes against the policy of the state; providing notice to the nonregistering party; allowing opportunity to challenge order on certain grounds; providing for enforcement of an order unless one of the grounds for denying recognition is established; and requiring documents submitted under the convention be in the original language and a translated version submitted if the original language is not English.

Be it enacted by the Legislature of West Virginia:

That §48-16-102, §48-16-103, §48-16-104, §48-16-201, §48-16-203, §48-16-204, §48-16-205, §48-16-206, §48-16-207, §48-16-208, §48-16-209, §48-16-210, §48-16-211, §48-16-301, §48-16-304, §48-16-305, §48-16-307, §48-16-310, §48-16-311, §48-16-313, §48-16-314, §48-16-316, §48-16-317, §48-16-318, §48-16-319, §48-16-401, §48-16-501, §48-16-502, §48-16-504, §48-16-505, §48-16-506, §48-16-507, §48-16-601, §48-16-602, §48-16-603, §48-16-604, §48-16-605, §48-16-606, §48-16-607, §48-16-608, §48-16-609, §48-16-610, §48-16-611, §48-16-613, §48-16-614, §48-16-615, §48-16-701, §48-16-801, §48-16-802, §48-16-902 and §48-16-903 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be amended by adding thereto fifteen new sections, designated §48-16-105, §48-16-402, §48-16-616, §48-16-702, §48-16-703, §48-16-704, §48-16-705, §48-16-706, §48-16-707, §48-16-708, §48-16-709, §48-16-710, §48-16-711, §48-16-712 and §48-16-713, all to read as follows:

ARTICLE 16. UNIFORM INTERSTATE FAMILY SUPPORT ACT.**PART I. GENERAL PROVISIONS.****§48-16-102. Definitions.**

1 As used in this article:

2 (1) "Child" means an individual, whether over or under
3 the age of majority, who is or is alleged to be owed a duty of
4 support by the individual's parent or who is or is alleged to
5 be the beneficiary of a support order directed to the parent.

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

9 (3) "Convention" means the Convention on the
10 International Recovery of Child Support and Other Forms of
11 Family Maintenance, concluded at The Hague on November
12 23, 2007.

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

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

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

22 (B) Which has established a reciprocal arrangement for
23 child support with this state;

24 (C) Which has enacted a law or established procedures
25 for the issuance and enforcement of support orders which
26 are substantially similar to the procedures under this article;
27 or

28 (D) In which the convention is in force with respect to the
29 United States.

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

32 (7) "Foreign tribunal" means a court, administrative
33 agency or quasi-judicial entity of a foreign country which is
34 authorized to establish, enforce or modify support orders or
35 to determine parentage of a child. The term includes a
36 competent authority under the convention.

37 (8) "Home state" means the state or foreign country in
38 which a child lived with a parent or a person acting as parent
39 for at least six consecutive months immediately preceding the
40 time of filing of a petition or comparable pleading for support
41 and, if a child is less than six months old, the state or foreign
42 country in which the child lived from birth with any of them.
43 A period of temporary absence of any of them is counted as
44 part of the six-month or other period.

45 (9) "Income" includes earnings or other periodic
46 entitlements to money from any source and any other
47 property subject to withholding for support under the law of
48 this state.

49 (10) "Income withholding order" means an order or other
50 legal process directed to an obligor's source of income as
51 defined by section 1-240 [§48-1-240] of this chapter to
52 withhold support from the income of the obligor.

53 (11) "Initiating tribunal" means the tribunal of a state or
54 foreign country from which a petition or comparable pleading
55 is forwarded or in which a petition or comparable pleading is
56 filed for forwarding to another state or foreign country.

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

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

63 (14) "Issuing tribunal" means the tribunal of a state or
64 foreign country that issues a support order or a judgment
65 determining parentage of a child.

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

68 (16) "Obligee" means:

69 (A) An individual to whom a duty of support is or is
70 alleged to be owed or in whose favor a support order or a
71 judgment determining parentage of a child has been issued;

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

77 (C) An individual seeking a judgment determining
78 parentage of the individual's child; or

79 (D) A person that is a creditor in a proceeding under part
80 VII.

81 (17) "Obligor" means an individual or the estate of a
82 decedent that:

83 (A) Owes or is alleged to owe a duty of support;

84 (B) Is alleged but has not been adjudicated to be a parent
85 of a child;

86 (C) Is liable under a support order; or

87 (D) Is a debtor in a proceeding under part VII.

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

91 (19) "Person" means an individual, corporation, business
92 trust, estate, trust, partnership, limited liability company,
93 association, joint venture, public corporation, government or
94 governmental subdivision, agency or instrumentality or any
95 other legal or commercial entity.

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

99 (21) "Register" means to record in a tribunal of this state
100 a support order or judgment determining parentage of a child
101 issued in another state or a foreign country.

102 (22) "Registering tribunal" means a tribunal in which a
103 support order or judgment determining parentage of a child
104 is registered.

105 (23) "Responding state" means a state in which a petition
106 or comparable pleading for support or to determine parentage

107 of a child is filed or to which a petition or comparable
108 pleading is forwarded for filing from another state or a
109 foreign country.

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

112 (25) "Spousal support order" means a support order for
113 a spouse or former spouse of the obligor.

114 (26) "State" means a state of the United States, the
115 District of Columbia, Puerto Rico, the United States Virgin
116 Islands or any territory or insular possession subject to the
117 jurisdiction of the United States. The term includes an Indian
118 nation or tribe.

119 (27) "Support enforcement agency" means a public
120 official or governmental entity, or private agency authorized
121 to:

122 (A) Seek enforcement of support orders or laws relating
123 to the duty of support;

124 (B) Seek establishment or modification of child support;

125 (C) Request determination of parentage of a child;

126 (D) Attempt to locate obligors or their assets; or

127 (E) Request determination of the controlling child support
128 order.

129 (28) "Support order" means a judgment, decree, order,
130 decision or directive, whether temporary, final or subject to
131 modification, issued in a state or foreign country for the
132 benefit of a child, a spouse or a former spouse which provides

133 for monetary support, health care, arrearages, retroactive
134 support or reimbursement for financial assistance provided to
135 an individual obligee in place of child support. The term may
136 include related costs and fees, interest, income withholding,
137 automatic adjustment, reasonable attorney's fees and other
138 relief.

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

§48-16-103. State tribunal and support enforcement agency.

1 (a) The family court is the tribunal of this state.

2 (b) The Bureau for Child Support Enforcement is the
3 support enforcement agency of this state.

§48-16-104. Remedies cumulative.

1 (a) Remedies provided by this article are cumulative and
2 do not affect the availability of remedies under other law or
3 the recognition of a support order on the basis of comity.

4 (b) This article does not:

5 (1) Provide the exclusive method of establishing or
6 enforcing a support order under the law of this state; or

7 (2) Grant a tribunal of this state jurisdiction to render
8 judgment or issue an order relating to child custody or
9 visitation in a proceeding under this article.

§48-16-105. Application of article to resident of foreign country and foreign support proceeding.

1 (a) A tribunal of this state shall apply parts I through VI
2 [§48-16-101 et seq. through §48-16-601 et seq.] and, as
3 applicable, part VII [§48-16-701 et seq.], to a support
4 proceeding involving:

5 (1) A foreign support order;

6 (2) A foreign tribunal; or

7 (3) An obligee, obligor, or child residing in a foreign
8 country.

9 (b) A tribunal of this state that is requested to recognize
10 and enforce a support order on the basis of comity may apply
11 the procedural and substantive provisions of parts I through
12 VI.

13 (c) Part VII [§48-16-701 et seq.] applies only to a support
14 proceeding under the convention. In such a proceeding, if a
15 provision of part VII [§48-16-701 et seq.] is inconsistent with
16 parts 1 through VI [§48-16-101 et seq. through §48-16-601
17 et seq.], part VII [§48-16-701 et seq.] controls.

PART II. JURISDICTION.

§48-16-201. Bases for jurisdiction over nonresident.

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

5 (1) The individual is personally served with notice within
6 this state;

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

11 (3) The individual resided with the child in this state;

12 (4) The individual resided in this state and provided
13 prenatal expenses or support for the child;

14 (5) The child resides in this state as a result of the acts or
15 directives of the individual;

16 (6) The individual engaged in sexual intercourse in this
17 state and the child may have been conceived by that act of
18 intercourse;

19 (7) The individual has committed a tortious act by failing
20 to support a child resident in this state; or

21 (8) There is any other basis consistent with the
22 constitutions of this state and the United States for the
23 exercise of personal jurisdiction.

24 (b) The bases of personal jurisdiction set forth in
25 subsection (a) of this section or in any other law of this state
26 may not be used to acquire personal jurisdiction for a tribunal
27 of this state to modify a child support order of another state
28 unless the requirements of section 611 [§48-16-611] are met
29 or in the case of a foreign support order, unless the
30 requirements of section 615 [§48-16-615] are met.

§48-16-203. Initiating and responding tribunal of state.

1 Under this article, a tribunal of this state may serve as an
2 initiating tribunal to forward proceedings to a tribunal of

3 another state and as a responding tribunal for proceedings
4 initiated in another state or a foreign country.

§48-16-204. Simultaneous proceedings.

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

5 (1) The petition or comparable pleading in this state is
6 filed before the expiration of the time allowed in the other
7 state or the foreign country for filing a responsive pleading
8 challenging the exercise of jurisdiction by the other state or
9 the foreign country:

10 (2) The contesting party timely challenges the exercise of
11 jurisdiction in the other state or foreign country; and

12 (3) If relevant, this state is the home state of the child.

13 (b) A tribunal of this state may not exercise jurisdiction
14 to establish a support order if the petition or comparable
15 pleading is filed before a petition or comparable pleading is
16 filed in another state or a foreign country if:

17 (1) The petition or comparable pleading in the other state
18 or foreign country is filed before the expiration of the time
19 allowed in this state for filing a responsive pleading
20 challenging the exercise of jurisdiction by this state;

21 (2) The contesting party timely challenges the exercise of
22 jurisdiction in this state; and

23 (3) If relevant, the other state or foreign country is the
24 home state of the child.

§48-16-205. Continuing, exclusive jurisdiction to modify child support order.

1 (a) A tribunal of this state that has issued a child support
2 order consistent with the law of this state has and shall
3 exercise continuing, exclusive jurisdiction to modify its child
4 support order if the order is the controlling order and:

5 (1) At the time of the filing of a request for modification
6 this state is the residence of the obligor, the individual
7 obligee or the child for whose benefit the support order is
8 issued; or

9 (2) Even if this state is not the residence of the obligor,
10 the individual obligee or the child for whose benefit the
11 support order is issued, the parties consent in a record or in
12 open court that the tribunal of this state may continue to
13 exercise jurisdiction to modify its order.

14 (b) A tribunal of this state that has issued a child support
15 order consistent with the law of this state may not exercise
16 continuing, exclusive jurisdiction to modify the order if:

17 (1) All of the parties who are individuals file consent in
18 a record with the tribunal of this state that a tribunal of
19 another state that has jurisdiction over at least one of the
20 parties who is an individual or that is located in the state of
21 residence of the child may modify the order and assume
22 continuing, exclusive jurisdiction; or

23 (2) Its order is not the controlling order.

24 (c) If a tribunal of another state has issued a child support
25 order pursuant to the Uniform Interstate Family Support Act
26 or a law substantially similar to that article which modifies a
27 child support order of a tribunal of this state, tribunals of this

28 state shall recognize the continuing, exclusive jurisdiction of
29 the tribunal of the other state.

30 (d) A tribunal of this state that lacks continuing, exclusive
31 jurisdiction to modify a child support order may serve as an
32 initiating tribunal to request a tribunal of another state to
33 modify a support order issued in that state.

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

§48-16-206. Continuing jurisdiction to enforce child support order.

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

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

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

12 (b) A tribunal of this state having continuing jurisdiction
13 over a support order may act as a responding tribunal to
14 enforce the order.

§48-16-207. Determination of controlling child support order.

1 (a) If a proceeding is brought under this article and only
2 one tribunal has issued a child support order, the order of that
3 tribunal controls and must be so recognized.

4 **(b) If a proceeding is brought under this article, and two**
5 **or more child support orders have been issued by tribunals of**
6 **this state, another state or a foreign country with regard to the**
7 **same obligor and same child, a tribunal of this state having**
8 **personal jurisdiction over both the obligor and individual**
9 **obligee shall apply the following rules and by order shall**
10 **determine which order controls and must be recognized.**

11 **(1) If only one of the tribunals would have continuing,**
12 **exclusive jurisdiction under this article, the order of that**
13 **tribunal controls and must be so recognized.**

14 **(2) If more than one of the tribunals would have**
15 **continuing, exclusive jurisdiction under this article:**

16 **(A) An order issued by a tribunal in the current home**
17 **state of the child controls; or**

18 **(B) If an order has not been issued in the current home**
19 **state of the child, the order most recently issued controls.**

20 **(3) If none of the tribunals would have continuing,**
21 **exclusive jurisdiction under this article, the tribunal of this**
22 **state shall issue a child support order which controls.**

23 **(c) If two or more child support orders have been issued**
24 **for the same obligor and same child, upon request of a party**
25 **who is an individual or that is a support enforcement agency,**
26 **a tribunal of this state having personal jurisdiction over both**
27 **the obligor and the obligee who is an individual shall**
28 **determine which order controls under subsection (b) of this**
29 **section. The request may be filed with a registration for**
30 **enforcement or registration for modification pursuant to part**
31 **VI or [§48-16-601 et seq.] may be filed as a separate**
32 **proceeding.**

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

38 (e) The tribunal that issued the controlling order under
39 subsection (a), (b) or (c) of this section has continuing
40 jurisdiction to the extent provided in section 16-205 [§48-16-
41 205] or 16-206 [§48-16-206].

42 (f) A tribunal of this state that determines by order which
43 is the controlling order under subsection (b) (1) or (2) or (c)
44 or that issues a new controlling order under subdivision (3)
45 of subsection (b) shall state in that order:

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

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

49 (3) The total amount of consolidated arrears and accrued
50 interest, if any, under all of the orders after all payments
51 made are credited as provided by section 209 [§48-16-209].

52 (g) Within thirty days after issuance of an order
53 determining which is the controlling order, the party
54 obtaining that order shall file a certified copy of it in each
55 tribunal that issued or registered an earlier order of child
56 support. A party or support enforcement agency obtaining
57 the order that fails to file a certified copy is subject to
58 appropriate sanctions by a tribunal in which the issue of
59 failure to file arises. The failure to file does not affect the
60 validity or enforceability of the controlling order.

61 (h) An order that has been determined to be the
62 controlling order, or a judgment for consolidated arrears of
63 support and interest, if any, made pursuant to this section
64 must be recognized in proceedings under this article.

§48-16-208. Child support orders for two or more obligees.

1 In responding to registrations or petitions for enforcement
2 of two or more child support orders in effect at the same time
3 with regard to the same obligor and different individual
4 obligees, at least one of which was issued by a tribunal of
5 another state or a foreign country, a tribunal of this state shall
6 enforce those orders in the same manner as if the orders had
7 been issued by a tribunal of this state.

§48-16-209. Credit for payments.

1 A tribunal of this state shall credit amounts collected for
2 a particular period pursuant to any child support order against
3 the amounts owed for the same period under any other child
4 support order for support of the same child issued by a
5 tribunal of this state, another state, or a foreign country.

§48-16-210. Application of article to nonresident subject to personal jurisdiction.

1 A tribunal of this state exercising personal jurisdiction
2 over a nonresident in a proceeding under this article, under
3 other law of this state relating to a support order, or
4 recognizing a foreign support order may receive evidence
5 from outside this state pursuant to section 316 [§48-16-316],
6 communication with a tribunal outside this state pursuant to
7 section 317 [§48-16-317], and obtain discovery through a
8 tribunal outside this state pursuant to section 318 [§48-16-
9 318]. In all other respects, parts III through [§§48-3-101 et
10 seq. through §§48-6-101 et seq.] VI do not apply and the

11 tribunal shall apply the procedural and substantive law of this
12 state.

§48-16-211. Continuing, exclusive jurisdiction to modify spousal support order.

1 (a) A tribunal of this state issuing a spousal support order
2 consistent with the law of this state has continuing, exclusive
3 jurisdiction to modify the spousal support order throughout
4 the existence of the support obligation.

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

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

11 (1) An initiating tribunal to request a tribunal of another
12 state to enforce the spousal support order issued in this state;
13 or

14 (2) A responding tribunal to enforce or modify its own
15 spousal support order.

**PART III. CIVIL PROCEDURES OF GENERAL
APPLICATION.**

§48-16-301. Proceeding under article.

1 (a) Except as otherwise provided in this article, this part
2 applies to all proceedings under this article.

3 (b) An individual petitioner or a support enforcement
4 agency may initiate a proceeding authorized under this article

5 by filing a petition in an initiating tribunal for forwarding to
6 a responding tribunal or by filing a petition or a comparable
7 pleading directly in a tribunal of another state or a foreign
8 country which has or can obtain personal jurisdiction over the
9 respondent.

§48-16-304. Duties of initiating tribunal.

1 (a) Upon the filing of a petition authorized by this article,
2 an initiating tribunal of this state shall forward the petition
3 and its accompanying documents:

4 (1) To the responding tribunal or appropriate support
5 enforcement agency in the responding state; or

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

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

§48-16-305. Duties and powers of responding tribunal.

1 (a) When a responding tribunal of this state receives a
2 petition or comparable pleading from an initiating tribunal or
3 directly pursuant to subsection (b), section 16-301 [§48-16-

4 301], it shall cause the petition or pleading to be filed and
5 notify the petitioner where and when it was filed.

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

9 (1) Establish or enforce a support order, modify a child
10 support order, determine the controlling child support order,
11 or determine parentage of a child;

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

14 (3) Order income withholding;

15 (4) Determine the amount of any arrearages and specify
16 a method of payment;

17 (5) Enforce orders by civil or criminal contempt or both;

18 (6) Set aside property for satisfaction of the support
19 order;

20 (7) Place liens and order execution on the obligor's
21 property;

22 (8) Order an obligor to keep the tribunal informed of the
23 obligor's current residential address, electronic mail address,
24 telephone number, employer, address of employment and
25 telephone number at the place of employment;

26 (9) Issue a capias for an obligor who has failed after
27 proper notice to appear at a hearing ordered by the tribunal
28 and enter the capias in any local and state computer systems
29 for criminal warrants;

30 (10) Order the obligor to seek appropriate employment by
31 specified methods;

32 (11) Award reasonable attorney's fees and other fees and
33 costs; and

34 (12) Grant any other available remedy.

35 (c) A responding tribunal of this state shall include in a
36 support order issued under this article or, in the documents
37 accompanying the order, the calculations on which the
38 support order is based.

39 (d) A responding tribunal of this state may not condition
40 the payment of a support order issued under this article upon
41 compliance by a party with provisions for visitation.

42 (e) If a responding tribunal of this state issues an order
43 under this article, the tribunal shall send a copy of the order
44 to the petitioner and the respondent and to the initiating
45 tribunal, if any.

46 (f) If requested to enforce a support order, arrears or
47 judgment or modify a support order stated in a foreign
48 currency, a responding tribunal of this state shall convert the
49 amount stated in the foreign currency to the equivalent
50 amount in dollars under the applicable official or market
51 exchange rate as publicly reported.

§48-16-307. Duties of support enforcement agency.

1 (a) A support enforcement agency of this state, upon
2 request, shall provide services to a petitioner in a proceeding
3 under this article.

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

6 (1) Take all steps necessary to enable an appropriate
7 tribunal of this state, another state or a foreign country to
8 obtain jurisdiction over the respondent;

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

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

14 (4) Within two days, exclusive of Saturdays, Sundays and
15 legal holidays, after receipt of a notice in a record from an
16 initiating, responding or registering tribunal, send a copy of
17 the notice to the petitioner;

18 (5) Within two days, exclusive of Saturdays, Sundays and
19 legal holidays, after receipt of communication in a record
20 from the respondent or the respondent's attorney, send a copy
21 of the communication to the petitioner; and

22 (6) Notify the petitioner if jurisdiction over the
23 respondent cannot be obtained.

24 (c) A support enforcement agency of this state that
25 requests registration of a child support order in this state for
26 enforcement or for modification shall make reasonable
27 efforts:

28 (1) To ensure that the order to be registered is the
29 controlling order; or

30 (2) If two or more child support orders exist and the
31 identity of the controlling order has not been determined, to
32 ensure that a request for such a determination is made in a
33 tribunal having jurisdiction to do so.

34 (d) A support enforcement agency of this state that
35 requests registration and enforcement of a support order,
36 arrears or judgment stated in a foreign currency shall convert
37 the amounts stated in the foreign currency into the equivalent
38 amounts in dollars under the applicable official or market
39 exchange rate as publicly reported.

40 (e) A support enforcement agency of this state shall
41 request a tribunal of this state to issue a child support order
42 and an income withholding order that redirect payment of
43 current support, arrears, and interest if requested to do so by
44 a support enforcement agency of another state pursuant to
45 section 319 [§48-16-319].

46 (f) This article does not create or negate a relationship of
47 attorney and client or other fiduciary relationship between a
48 support enforcement agency or the attorney for the agency
49 and the individual being assisted by the agency.

§48-16-310. Duties of state information agency.

1 (a) The Bureau for Child Support Enforcement is the state
2 information agency under this article.

3 (b) The state information agency shall:

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

9 (2) Maintain a register of names and addresses of
10 tribunals and support enforcement agencies received from
11 other states.

12 (3) Forward to the appropriate tribunal in the county in
13 this state in which the obligee who is an individual or the
14 obligor resides, or in which the obligor's property is believed
15 to be located, all documents concerning a proceeding under
16 this article received from another state or a foreign country;
17 and

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

§48-16-311. Pleadings and accompanying documents.

1 (a) In a proceeding under this article, a petitioner seeking
2 to establish a support order, to determine parentage of a child
3 or to register and modify a support order of a tribunal of
4 another state or a foreign country must file a petition. Unless
5 otherwise ordered under section 16-312 [§48-16-312], the
6 petition or accompanying documents must provide, so far as
7 known, the name, residential address and social security
8 numbers of the obligor and the obligee or the parent and
9 alleged parent and the name, sex, residential address, social
10 security number and date of birth of each child for whose
11 benefit support is sought or whose parentage is to be
12 determined. Unless filed at the time of registration, the
13 petition must be accompanied by a copy of any support order
14 known to have been issued by another tribunal. The petition
15 may include any other information that may assist in locating
16 or identifying the respondent.

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

§48-16-313. Costs and fees.

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

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

15 (c) The tribunal shall order the payment of costs and
16 reasonable attorney's fees if it determines that a hearing was
17 requested primarily for delay. In a proceeding under part VI
18 [§§48-16-601 through 48-16-615], a hearing is presumed to
19 have been requested primarily for delay if a registered
20 support order is confirmed or enforced without change.

§48-16-314. Limited immunity of petitioner.

1 (a) Participation by a petitioner in a proceeding under this
2 article before a responding tribunal, whether in person, by
3 private attorney or through services provided by the support

4 enforcement agency, does not confer personal jurisdiction
5 over the petitioner in another proceeding.

6 (b) A petitioner is not amenable to service of civil process
7 while physically present in this state to participate in a
8 proceeding under this article.

9 (c) The immunity granted by this section does not extend
10 to civil litigation based on acts unrelated to a proceeding
11 under this article committed by a party while physically
12 present in this state to participate in the proceeding.

§48-16-316. Special rules of evidence and procedure.

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

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

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

17 (d) Copies of bills for testing for parentage of a child, and
18 for prenatal and postnatal health care of the mother and child,
19 furnished to the adverse party at least ten days before trial are

20 admissible in evidence to prove the amount of the charges
21 billed and that the charges were reasonable, necessary and
22 customary.

23 (e) Documentary evidence transmitted from outside this
24 state to a tribunal of this state by telephone, telecopier or
25 other electronic means that do not provide an original record
26 may not be excluded from evidence on an objection based on
27 the means of transmission.

28 (f) In a proceeding under this article, a tribunal of this
29 state shall permit a party or witness residing outside this state
30 to be deposed or to testify under penalty of perjury by
31 telephone, audiovisual means or other electronic means at a
32 designated tribunal or other location. A tribunal of this state
33 shall cooperate with other tribunals in designating an
34 appropriate location for the deposition or testimony. The
35 Supreme Court of Appeals shall promulgate new rules or
36 amend the rules of practice and procedure for family law to
37 establish procedures pertaining to the exercise of cross
38 examination in those instances involving the receipt of
39 testimony by means other than direct or personal testimony.

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

44 (h) A privilege against disclosure of communications
45 between spouses does not apply in a proceeding under this
46 article.

47 (i) The defense of immunity based on the relationship of
48 husband and wife or parent and child does not apply in a
49 proceeding under this article.

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

§48-16-317. Communications between tribunals.

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

§48-16-318. Assistance with discovery.

1 A tribunal of this state may:

2 (1) Request a tribunal outside this state to assist in
3 obtaining discovery; and

4 (2) Upon request, compel a person over which it has
5 jurisdiction to respond to a discovery order issued by a
6 tribunal outside this state.

§48-16-319. Receipt and disbursement of payments.

1 (a) A support enforcement agency or tribunal of this state
2 shall disburse promptly any amounts received pursuant to a
3 support order as directed by the order. The agency or
4 tribunal shall furnish to a requesting party or tribunal of
5 another state or a foreign country a certified statement by the
6 custodian of the record of the amounts and dates of all
7 payments received.

8 (b) If neither the obligor, nor the obligee who is an
9 individual, nor the child resides in this state, upon request

10 from the support enforcement agency of this state or another
11 state, a tribunal of this state shall:

12 (1) Direct that the support payment be made to the
13 support enforcement agency in the state in which the obligee
14 is receiving services; and

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

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

PART IV. ESTABLISHMENT OF SUPPORT ORDER.

§48-16-401. PETITION TO ESTABLISH SUPPORT ORDER.

1 (a) If a support order entitled to recognition under this
2 article has not been issued, a responding tribunal of this state
3 with personal jurisdiction over the parties may issue a support
4 order if:

5 (1) The individual seeking the order resides outside this
6 state; or

7 (2) The support enforcement agency seeking the order is
8 located outside this state.

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

- 12 (1) A presumed father of the child;
- 13 (2) Petitioning to have his paternity adjudicated;
- 14 (3) Identified as the father of the child through genetic
15 testing;
- 16 (4) An alleged father who has declined to submit to
17 genetic testing;
- 18 (5) Shown by clear and convincing evidence to be the
19 father of the child;
- 20 (6) An acknowledged father as provided by applicable
21 state law;
- 22 (7) The mother of the child; or
- 23 (8) An individual who has been ordered to pay child
24 support in a previous proceeding and the order has not been
25 reversed or vacated.
- 26 (c) Upon finding, after notice and opportunity to be
27 heard, that an obligor owes a duty of support, the tribunal
28 shall issue a support order directed to the obligor and may
29 issue other orders pursuant to section 16-305 [§48-16-305].

§48-16-402. Proceeding to determine parentage.

- 1 A tribunal of this state authorized to determine parentage
2 of a child may serve as a responding tribunal in a proceeding
3 to determine parentage of a child brought under this article or
4 a law or procedure substantially similar to this article.

**PART V. ENFORCEMENT OF SUPPORT ORDER WITHOUT
REGISTRATION.**

§48-16-501. Employer's receipt of income withholding order of another state.

1 An income withholding order issued in another state may
2 be sent by or on behalf of the obligee, or by the support
3 enforcement agency, to the person defined as the obligor's
4 source of income under section 1-240 [§48-1-240] of this
5 chapter without first filing a petition or comparable pleading
6 or registering the order with a tribunal of this state.

§48-16-502. Employer's compliance with income withholding order of another state.

1 (a) Upon receipt of an income withholding order, the
2 obligor's employer shall immediately provide a copy of the
3 order to the obligor.

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

7 (c) Except as otherwise provided in subsection (d) of this
8 section and section 16-503 [§48-16-503], the employer shall
9 withhold and distribute the funds as directed in the
10 withholding order by complying with the terms of the order
11 which specify:

12 (1) The duration and amount of periodic payments of
13 current child support, stated as a sum certain;

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

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

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

23 (5) The amount of periodic payments of arrearages and
24 interest on arrearages, stated as sums certain.

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

28 (1) The employer's fee for processing an income
29 withholding order;

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

32 (3) The times within which the employer must implement
33 the withholding order and forward the child support payment.

§48-16-504. Immunity from civil liability.

1 An employer that complies with an income withholding
2 order issued in another state in accordance with this article is
3 not subject to civil liability to any individual or agency with
4 regard to the employer's withholding of child support from
5 the obligor's income.

§48-16-505. Penalties for noncompliance.

1 An employer that willfully fails to comply with an
2 income withholding order issued in another state and
3 received for enforcement is subject to the same penalties that
4 may be imposed for noncompliance with an order issued by
5 a tribunal of this state.

§48-16-506. Contest by obligor.

1 (a) An obligor may contest the validity or enforcement of
2 an income withholding order issued in another state and
3 received directly by an employer in this state by registering
4 the order in a tribunal of this state and filing a contest to that
5 order as provided in part VI [§48-16-601 et seq.], or
6 otherwise contesting the order in the same manner as if the
7 order had been issued by a tribunal of this state.

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

9 (1) A support enforcement agency providing services to
10 the obligee;

11 (2) Each employer that has directly received an income
12 withholding order relating to the obligor; and

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

§48-16-507. Administrative enforcement of orders.

1 (a) A party or support enforcement agency seeking to
2 enforce a support order or an income withholding order, or
3 both, issued in another state or a foreign support order may
4 send the documents required for registering the order to a
5 support enforcement agency of this state.

6 (b) Upon receipt of the documents, the support
7 enforcement agency, without initially seeking to register the
8 order, shall consider and, if appropriate, use any
9 administrative procedure authorized by the law of this state
10 to enforce a support order or an income withholding order, or
11 both. If the obligor does not contest administrative

12 enforcement, the order need not be registered. If the obligor
13 contests the validity or administrative enforcement of the
14 order, the support enforcement agency shall register the order
15 pursuant to this article.

PART VI. REGISTRATION, ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER.

§48-16-601. Registration of order for enforcement.

1 A support order or income withholding order issued in
2 another state or a foreign support order may be registered in
3 this state for enforcement.

§48-16-602. Procedure to register order for enforcement.

1 (a) Except as provided in section 706 [§48-16-706], a
2 support order or income withholding order of another state or
3 a foreign support order may be registered in this state by
4 sending the following records to the state information agency
5 in this state:

6 (1) A letter of transmittal to the tribunal requesting
7 registration and enforcement;

8 (2) Two copies, including one certified copy, of the order
9 to be registered, including any modification of the order;

10 (3) A sworn statement by the person requesting
11 registration or a certified statement by the custodian of the
12 records showing the amount of any arrearage;

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

14 (A) The obligor's address and social security number;

15 **(B) The name and address of the obligor's employer and**
16 **any other source of income of the obligor; and**

17 **(C) A description and the location of property of the**
18 **obligor in this state not exempt from execution; and**

19 **(5) Except as otherwise provided in section 312 [§48-16-**
20 **312], the name and address of the obligee and, if applicable,**
21 **the person to whom support payments are to be remitted.**

22 **(b) On receipt of a request for registration, the clerk of**
23 **the court shall cause the order to be filed as an order of a**
24 **tribunal of another state or a foreign support order, together**
25 **with one copy of the documents and information, regardless**
26 **of their form.**

27 **(c) A petition or comparable pleading seeking a remedy**
28 **that must be affirmatively sought under other law of this state**
29 **may be filed at the same time as the request for registration or**
30 **later. The pleading must specify the grounds for the remedy**
31 **sought.**

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

34 **(1) Furnish to the tribunal a copy of every support order**
35 **asserted to be in effect in addition to the documents specified**
36 **in this section;**

37 **(2) Specify the order alleged to be the controlling order,**
38 **if any; and**

39 **(3) Specify the amount of consolidated arrears, if any.**

40 **(e) A request for a determination of which is the**
41 **controlling order may be filed separately or with a request for**

42 registration and enforcement or for registration and
43 modification. The person requesting registration shall give
44 notice of the request to each party whose rights may be
45 affected by the determination.

§48-16-603. Effect of registration for enforcement.

1 (a) A support order or income withholding order issued
2 in another state or a foreign support order is registered when
3 the order is filed in the registering tribunal of this state.

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

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

§48-16-604. Choice of law.

1 (a) Except as otherwise provided in subsection (d) of this
2 section, the law of the issuing state or foreign country
3 governs:

4 (1) The nature, extent, amount and duration of current
5 payments under a registered support order;

6 (2) The computation and payment of arrearages and
7 accrual of interest on the arrearages under the support order;
8 and

9 (3) The existence and satisfaction of other obligations
10 under the support order.

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

14 (c) A responding tribunal of this state shall apply the
15 procedures and remedies of this state to enforce current
16 support and collect arrears and interest due on a support order
17 of another state or a foreign country registered in this state.

18 (d) After a tribunal of this state or another state
19 determines which is the controlling order and issues an order
20 consolidating arrears, if any, a tribunal of this state shall
21 prospectively apply the law of the state or foreign country
22 issuing the controlling order, including its law on interest on
23 arrears, on current and future support and on consolidated
24 arrears.

§48-16-605. Notice of registration of order.

1 (a) When a support order or income withholding order
2 issued in another state or a foreign support order is registered,
3 the clerk of the court shall notify the nonregistering party.
4 The notice must be accompanied by a copy of the registered
5 order and the documents and relevant information
6 accompanying the order.

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

8 (1) That a registered order is enforceable as of the date of
9 registration in the same manner as an order issued by a
10 tribunal of this state;

11 (2) That a hearing to contest the validity or enforcement
12 of the registered order must be requested within twenty days
13 after notice unless the registered order is under section 707
14 [§48-16-707];

15 (3) That failure to contest the validity or enforcement of
16 the registered order in a timely manner will result in
17 confirmation of the order and enforcement of the order and
18 the alleged arrearages; and

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

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

22 (1) Identify the two or more orders and the order alleged
23 by the registering party to be the controlling order and the
24 consolidated arrears, if any;

25 (2) Notify the nonregistering party of the right to a
26 determination of which is the controlling order;

27 (3) State that the procedures provided in subsection (b) of
28 this section apply to the determination of which is the
29 controlling order; and

30 (4) State that failure to contest the validity or enforcement
31 of the order alleged to be the controlling order in a timely
32 manner may result in confirmation that the order is the
33 controlling order.

34 (d) Upon registration of an income withholding order for
35 enforcement, the support enforcement agency or the
36 registering tribunal shall notify the obligor's source of
37 income pursuant to section 14-401 et seq. [§48-14-401 et
38 seq.], of this chapter.

§48-16-606. Procedure to contest validity or enforcement of registered support order.

1 (a) A nonregistering party seeking to contest the validity
2 or enforcement of a registered order in this state shall request
3 a hearing within the time required by section 605 [§48-16-

4 605]. The nonregistering party may seek to vacate the
5 registration, to assert any defense to an allegation of
6 noncompliance with the registered order or to contest the
7 remedies being sought or the amount of any alleged
8 arrearages pursuant to section 16-607 [§48-16-607].

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

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

§48-16-607. Contest of registration or enforcement.

1 (a) A party contesting the validity or enforcement of a
2 registered support order or seeking to vacate the registration
3 has the burden of proving one or more of the following
4 defenses:

5 (1) The issuing tribunal lacked personal jurisdiction over
6 the contesting party;

7 (2) The order was obtained by fraud;

8 (3) The order has been vacated, suspended or modified by
9 a later order;

10 (4) The issuing tribunal has stayed the order pending
11 appeal;

12 (5) There is a defense under the law of this state to the
13 remedy sought;

14 (6) Full or partial payment has been made;

15 (7) The statute of limitation under section 16-604 [§48-
16 16-604] precludes enforcement of some or all of the alleged
17 arrearages; or

18 (8) The alleged controlling order is not the controlling
19 order.

20 (b) If a party presents evidence establishing a full or
21 partial defense under subsection (a) of this section, a tribunal
22 may stay enforcement of a registered support order, continue
23 the proceeding to permit production of additional relevant
24 evidence and issue other appropriate orders. An uncontested
25 portion of the registered support 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
28 under subsection (a) of this section to the validity or
29 enforcement of a registered support order, the registering
30 tribunal shall issue an order confirming the order.

§48-16-608. Confirmed order.

1 Confirmation of a registered support order, whether by
2 operation of law or after notice and hearing, precludes further
3 contest of the order with respect to any matter that could have
4 been asserted at the time of registration.

**§48-16-609. Procedure to register child support order of another state for
modification.**

1 A party or support enforcement agency seeking to modify
2 or to modify and enforce a child support order issued in
3 another state shall register that order in this state in the same
4 manner provided in sections 16-601 through 16-608 [§§48-

5 16-601 through §48-16-608] if the order has not been
6 registered. A petition for modification may be filed at the
7 same time as a request for registration or later. The pleading
8 must specify the grounds for modification.

§48-16-610. Effect of registration for modification.

1 A tribunal of this state may enforce a child support order
2 of another state registered for purposes of modification in the
3 same manner as if the order had been issued by a tribunal of
4 this state, but the registered support order may be modified
5 only if the requirements of section 16-611 [§48-16-611] or
6 16-613 [§48-16-613] have been met.

§48-16-611. Modification of child support order of another state.

1 (a) If section 613 [§48-16-613] does not apply, upon
2 petition a tribunal of this state may modify a child support
3 order issued in another state which is registered in this state
4 if, after notice and hearing, the tribunal finds that:

5 (1) The following requirements are met:

6 (A) Neither the child, nor the obligee who is an
7 individual nor the obligor resides in the issuing state;

8 (B) A petitioner who is a nonresident of this state seeks
9 modification; and

10 (C) The respondent is subject to the personal jurisdiction
11 of the tribunal of this state; or

12 (2) This state is the residence of the child or a party who
13 is an individual is subject to the personal jurisdiction of the
14 tribunal of this state and all of the parties who are individuals
15 have filed consents in a record in the issuing tribunal for a

16 tribunal of this state to modify the support order and assume
17 continuing, exclusive jurisdiction.

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

23 (c) A tribunal of this state may not modify any aspect of
24 a child support order that may not be modified under the law
25 of the issuing state, including the duration of the obligation
26 of support. If two or more tribunals have issued child support
27 orders for the same obligor and same child, the order that
28 controls must be so recognized under section 16-207 [§48-
29 16-207] establishes the aspects of the support order which are
30 nonmodifiable.

31 (d) In a proceeding to modify a child support order, the
32 law of the state that is determined to have issued the initial
33 controlling order governs the duration of the obligation of
34 support. The obligor's fulfillment of the duty of support
35 established by that order precludes imposition of a further
36 obligation of support by a tribunal of this state.

37 (e) On the issuance of an order by a tribunal of this state
38 modifying a child support order issued in another state, the
39 tribunal of this state becomes the tribunal having continuing,
40 exclusive jurisdiction.

41 (f) Notwithstanding subsections (a) through (e) of this
42 section and section 201 (b), a tribunal of this state retains
43 jurisdiction to modify an order issued by a tribunal of this
44 state if:

45 (1) One party resides in another state; and

46 (2) The other party resides outside the United States.

§48-16-613. Jurisdiction to modify child support order of another state when individual parties reside in this state.

1 (a) If all of the parties who are individuals reside in this
2 state and the child does not reside in the issuing state, a
3 tribunal of this state has jurisdiction to enforce and to modify
4 the issuing state's child support order in a proceeding to
5 register that order.

6 (b) A tribunal of this state exercising jurisdiction under
7 this section shall apply the provisions of parts I [§48-16-101
8 et seq.] and II [§48-16-201 et seq.], and the procedural and
9 substantive law of this state to the proceeding for
10 enforcement or modification. Parts III, IV, V, VII and VIII
11 [§§48-16-301 et seq. through §§48-16-501 et seq. and §§48-
12 16-701 et seq. and §§48-16-801 et seq.] do not apply.

§48-16-614. Notice to issuing tribunal of modification.

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

§48-16-615. Jurisdiction to modify child support order of foreign country.

1 (a) Except as otherwise provided in section 711 [§48-16-
2 711], if a foreign country lacks or refuses to exercise
3 jurisdiction to modify its child support order pursuant to its

4 laws, a tribunal of this state may assume jurisdiction to modify
5 the child support order and bind all individuals subject to the
6 personal jurisdiction of the tribunal whether the consent to
7 modification of a child support order otherwise required of the
8 individual pursuant to section 611 [§48-16-611] has been given
9 or whether the individual seeking modification is a resident of
10 this state or of the foreign country.

11 (b) An order issued by a tribunal of this state modifying
12 a foreign child support order pursuant to this section is the
13 controlling order.

**§48-16-616. Procedure to register child support order of foreign country
for modification.**

1 A party or support enforcement agency seeking to
2 modify, or to modify and enforce, a foreign child support
3 order not under the convention may register that order in this
4 state under sections 601 through 608 [§§48-16-601 through
5 §48-16-608] if the order has not been registered. A petition
6 for modification may be filed at the same time as a request for
7 registration or at another time. The petition must specify the
8 grounds for modification.

PART VII. SUPPORT PROCEEDING UNDER CONVENTION.

§48-16-701. Definitions.

1 In this part:

2 (1) "Application" means a request under the convention
3 by an obligee or obligor, or on behalf of a child, made
4 through a central authority for assistance from another central
5 authority.

6 (2) "Central authority" means the entity designated by the
7 United States or a foreign country described in section

8 102(5)(D) [§48-16-102(5)(D)] to perform the functions
9 specified in the convention.

10 (3) "Convention support order" means a support order of
11 a tribunal of a foreign country described in section 102(5)(D)
12 [§48-16-102(5)(D)].

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

16 (5) "Foreign central authority" means the entity
17 designated by a foreign country described in section
18 102(5)(D) [§48-16-102(5)(D)], to perform the functions
19 specified in the convention.

20 (6) "Foreign support agreement:"

21 (A) Means an agreement for support in a record that:

22 (i) Is enforceable as a support order in the country of
23 origin;

24 (ii) Has been:

25 (I) Formally drawn up or registered as an authentic
26 instrument by a foreign tribunal; or

27 (II) Authenticated by, or concluded, registered or filed
28 with a foreign tribunal; and

29 (iii) May be reviewed and modified by a foreign tribunal;
30 and

31 (B) Includes a maintenance arrangement or authentic
32 instrument under the convention.

33 (7) “United States central authority” means the Secretary
34 of the United States Department of Health and Human
35 Services.

§48-16-702. Applicability.

1 This article applies only to a support proceeding under
2 the convention. In such a proceeding, if a provision of this
3 article is inconsistent with parts I through VI [§§48-16-101
4 et seq. through §§48-16-601 et seq.], this part controls.

**§48-16-703. Relationship of Bureau for Child Support Enforcement to
United States central authority.**

1 The Bureau for Child Support Enforcement of this state
2 is recognized as the agency designated by the United States
3 central authority to perform specific functions under the
4 convention.

**§48-16-704. Initiation by Bureau for Child Support Enforcement
proceeding under convention.**

1 (a) In a support proceeding under this article, the Bureau
2 for Child Support Enforcement of this state shall:

3 (1) Transmit and receive applications; and

4 (2) Initiate or facilitate the institution of a proceeding
5 regarding an application in a tribunal of this state.

6 (b) The following support proceedings are available to an
7 obligee or under the convention:

8 (1) Recognition or recognition and enforcement of a
9 foreign support order;

10 (2) Enforcement of a support order issued or recognized
11 in this state;

12 (3) Establishment of a support order if there is no existing
13 order, including, if necessary, determination of parentage of
14 a child;

15 (4) Establishment of a support order if recognition of a
16 foreign support order is refused under section 708(b)(2) [§48-
17 16-708(b)(2)], (4) [§48-16-708(b)(4)], or (9) [§48-16-708(b)(9)].

18 (5) Modification of a support order of a tribunal of this
19 state; and

20 (6) Modification of a support order of a tribunal of
21 another state or a foreign country.

22 (c) The following support proceedings are available
23 under the convention to an obligor against which there is an
24 existing support order;

25 (1) Recognition of an order suspending or limiting
26 enforcement of an existing support order of a tribunal of this
27 state;

28 (2) Modification of a support order of a tribunal of this
29 state; and

30 (3) Modification of a support order of a tribunal of
31 another state or a foreign country.

32 (d) A tribunal of this state may not require security, bond
33 or deposit, however described, to guarantee the payment of
34 costs and expenses in proceedings under the convention.

§48-16-705. Direct request.

1 (a) A petitioner may file a direct request seeking
2 establishment or modification of a support order or

3 determination of parentage of a child. In the proceeding, the
4 law of this state applies.

5 (b) A petitioner may file a direct request seeking
6 recognition and enforcement of a support order or support
7 agreement. In the proceeding, sections 706 through 713
8 [§§48-16-706 through §48-16-713] apply.

9 (c) In a direct request for recognition and enforcement of
10 a convention support order or foreign support agreement:

11 (1) A security, bond, or deposit is not required to
12 guarantee the payment of costs and expenses; and

13 (2) An obligee or obligor that in the issuing country has
14 benefited from free legal assistance is entitled to benefit, at least
15 to the same extent, from any free legal assistance provided for
16 by the law of this state under the same circumstances.

17 (d) A petitioner filing a direct request is not entitled to
18 assistance from the Bureau for Child Support Enforcement.

19 (e) This article does not prevent the application of laws
20 of this state that provide simplified, more expeditious rules
21 regarding a direct request for recognition and enforcement of
22 a foreign support order or foreign support agreement.

§48-16-706. Registration of convention support order.

1 (a) Except as otherwise provided in this article, a party
2 who is an individual or a support enforcement agency seeking
3 recognition of a convention support order shall register the
4 order in this state as provided in part VI.

5 (b) Notwithstanding sections 311 [§48-16-311] and
6 602(a) [§48-16-602(a)], a request for registration of a
7 convention support order must be accompanied by:

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

12 (2) A record stating that the support order is enforceable
13 in the issuing country;

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

21 (4) A record showing the amount of arrears, if any, and
22 the date the amount was calculated;

23 (5) A record showing a requirement for automatic
24 adjustment of the amount of support, if any, and the
25 information necessary to make the appropriate calculations;
26 and

27 (6) If necessary, a record showing the extent to which the
28 applicant received free legal assistance in the issuing country;

29 (c) A request for registration of a convention support
30 order may seek recognition and partial enforcement of the
31 order.

32 (d) A tribunal of this state may vacate the registration of a
33 convention support order without the filing of a contest under
34 section 707 [§48-16-707] only if, acting on its own motion, the
35 tribunal finds that recognition and enforcement of the order
36 would be manifestly incompatible with public policy.

37 (e) The tribunal shall promptly notify the parties of the
38 registration or the order vacating the registration of a
39 convention support order.

§48-16-707. Contest of registered convention support order.

1 (a) Except as otherwise provided in this article, sections
2 605 through 608 [§§48-16-605 through §48-16-608] apply to
3 a contest of a registered convention support order.

4 (b) A party contesting a registered convention support
5 order shall file a contest not later than thirty days after notice
6 of the registration, but if the contesting party does not reside
7 in the United States, the contest must be filed not later than
8 sixty 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) of this section, the order is enforceable.

12 (d) A contest of a registered convention support order
13 may be based only on grounds set forth in section 708 [§48-
14 16-708]. The contesting party bears the burden of proof.

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

17 (1) Is bound by the findings of fact on which the foreign
18 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.

§48-16-708. Recognition and enforcement of registered convention support order.

1 (a) Except as otherwise provided in subsection (b) of this
2 section, a tribunal of this state shall recognize and enforce a
3 registered convention support order.

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

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

12 (2) The issuing tribunal lacked personal jurisdiction
13 consistent with section 201 [§48-16-201];

14 (3) The order is not enforceable in the issuing country;

15 (4) The order was obtained by fraud in connection with
16 a matter of procedure;

17 (5) A record transmitted in accordance with section 706
18 [§48-16-706] lacks authenticity or integrity;

19 (6) A proceeding between the same parties and having the
20 same purpose is pending before a tribunal of this state and
21 that proceeding was the first to be filed;

22 (7) The order is incompatible with a more recent support
23 order involving the same parties and having the same purpose
24 if the more recent support order is entitled to recognition and
25 enforcement under this article in this state;

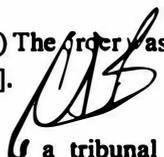
26 (8) Payment, to the extent alleged arrears have been paid
27 in whole or in part;

28 (9) In a case in which the respondent neither appeared nor
29 was represented in the proceeding in the issuing foreign
30 country:

31 (A) If the law of that country provides for prior notice of
32 proceedings, the respondent did not have proper notice of the
33 proceedings and an opportunity to be heard; or

34 (B) If the law of that country does not provide for prior
35 notice of the proceedings, the respondent did not have proper
36 notice of the order and an opportunity to be heard in a
37 challenge or appeal on fact or law before a tribunal; or

38 (10) The order was made in violation of section 711 [§48-
39 16-~~211~~].

40 (c)  a tribunal of this state does not recognize a
41 convention support order under subsection (b)(2) [§48-16-
42 708 (b)(2)], (4) [§48-16-708(b)(4)], or (9) [§48-16-708(b)(9);

43 (1) The tribunal may not dismiss the proceeding without
44 allowing a reasonable time for a party to request the
45 establishment of a new convention support order; and

46 (2) The Bureau for Child Support Enforcement shall take
47 all appropriate measures to request a child support order for
48 the obligee if the application for recognition and enforcement
49 was received under section 704 [§48-16-704].

§48-16-709. Partial enforcement.

1 If a tribunal of this state does not recognize and enforce
2 a convention support order in its entirety, it shall enforce any
3 severable part of the order. An application or direct request
4 may seek recognition and partial enforcement of a convention
5 support order.

§48-16-710. Foreign support agreement.

1 (a) Except as otherwise provided in subsections (c) and
2 (d) of this section, a tribunal of this state shall recognize and
3 enforce a foreign support agreement registered in this state.

4 (b) An application or direct request for recognition and
5 enforcement of a foreign support agreement must be
6 accompanied by:

7 (1) A complete text of the foreign support agreement; and

8 (2) A record stating that the foreign support agreement is
9 enforceable as an order of support in the issuing country.

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

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

17 (1) Recognition and enforcement of the agreement is
18 manifestly incompatible with public policy;

19 (2) The agreement was obtained by fraud or falsification;

20 (3) The agreement is incompatible with a support order
21 involving the same parties and having the same purpose in
22 this state, another state or a foreign country if the support
23 order is entitled to recognition and enforcement under this
24 article in this state; or

25 (4) The record submitted under subsection (b) of this
26 section lacks authenticity or integrity.

27 (e) A proceeding for recognition and enforcement of a
28 foreign support agreement must be suspended during the
29 pendency of a challenge to or appeal of the agreement before
30 a tribunal of another state or a foreign country.

§48-16-711. Modification of convention child support order.

1 (a) A tribunal of this state may not modify a convention
2 child support order if the obligee remains a resident of the
3 foreign country where the support order was issued unless:

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

8 (2) The foreign tribunal lacks or refuses to exercise
9 jurisdiction to modify its support order or issue a new support
10 order.

11 (b) If a tribunal of this state does not modify a convention
12 child support order because the order is not recognized in this
13 state, section 708(c) [§48-16-708(c)] applies.

§48-16-712. Personal information: limit on use.

1 Personal information gathered or transmitted under this
2 article may be used only for the purposes for which it was
3 gathered or transmitted.

§48-16-713. Record original language: English translation.

1 A record filed with a tribunal of this state under this
2 article must be in the original language, and, if not in English,
3 must be accompanied by an English translation.

PART VIII. INTERSTATE RENDITION.

§48-16-801. Grounds for rendition.

1 (a) For purposes of this article, "Governor" includes an
2 individual performing the functions of Governor or the
3 executive authority of a state covered by this article.

4 (b) The Governor of this state may:

5 (1) Demand that the Governor of another state surrender
6 an individual found in the other state who is charged
7 criminally in this state with having failed to provide for the
8 support of an obligee; or

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

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

§48-16-802. Conditions of rendition.

1 (a) Before making a demand that the Governor of another
2 state surrender an individual charged criminally in this state

3 with having failed to provide for the support of an obligee,
4 the Governor of this state may require a prosecutor of this
5 state to demonstrate that at least sixty days previously the
6 obligee had initiated proceeding for support pursuant to this
7 article or that the proceeding would be of no avail.

8 (b) If, under this article or a law substantially similar to
9 this article, the Governor of another state makes a demand
10 that the Governor of this state surrender an individual
11 charged criminally in that state with having failed to provide
12 for the support of a child or other individual to whom a duty
13 of support is owed, the Governor may require a prosecutor to
14 investigate the demand and report whether a proceeding for
15 support has been initiated or would be effective. If it appears
16 that a proceeding would be effective but has not been
17 initiated, the Governor may delay honoring the demand for a
18 reasonable time to permit the initiation of a proceeding.

19 (c) If a proceeding for support has been initiated and the
20 individual whose rendition is demanded prevails, the Governor
21 may decline to honor the demand. If the petitioner prevails and
22 the individual whose rendition is demanded is subject to a
23 support order, the Governor may decline to honor the demand
24 if the individual is complying with the support order.

PART IX. MISCELLANEOUS PROVISIONS.

§48-16-902. Transitional provision.

1 This article applies to proceedings begun on or after the
2 effective date of the amendments to this article enacted
3 during the 2015 regular session of the West Virginia
4 Legislature, to establish a support order or determine
5 parentage of a child or to register, recognize, enforce, or
6 modify a prior support order, determination, or agreement,
7 whenever issued or entered.

§48-16-903. Severability.

1 If any provision of this article or its application to any
2 person or circumstance is held invalid, the invalidity does not
3 affect other provisions or applications of this article which
4 can be given effect without the invalid provision or
5 application and to this end the provisions of this article are
6 severable.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Paul R. Spang
.....
Chairman Senate Committee

Dr. B. McIL
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clark A. Benson
.....
Clerk of the Senate

Steph D. Morris
.....
Clerk of the House of Delegates

Will Dale
.....
President of the Senate

Rob. P. Mc
.....
Speaker of the House of Delegates

The within *is approved* this the *31st*
March
Day of, 2015.

*Earl Ray Tomblin*⁵
.....
Governor

PRESENTED TO THE GOVERNOR

MAR 19 2015

Time 11:20 am