

1 **State of Arkansas**
2 **79th General Assembly**
3 **Regular Session, 1993**
4 **By: Senator Harriman**

A Bill

ACT 468 OF 1993
SENATE BILL 33

For An Act To Be Entitled

"THE UNIFORM INTERSTATE FAMILY SUPPORT ACT"

Subtitle

"THE UNIFORM INTERSTATE FAMILY SUPPORT ACT."

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

15 SECTION 1. Title 9 of the Arkansas Code is amended by inserting
16 chapter 17 to read as follows:

17 "ARTICLE 1. GENERAL PROVISIONS

18 §9-17-101. DEFINITIONS. In this chapter:

19 (1) Child means an individual, whether over or under the age of
20 majority, who is or is alleged to be owed a duty of support by the
21 individual's parent or who is or is alleged to be the beneficiary of a support
22 order directed to the parent.

23 (2) Child support order means a support order for a child, including
24 a child who has attained the age of majority under the law of the issuing
25 state.

26 (3) Duty of support means an obligation imposed or imposable by law
27 to provide support for a child, spouse, or former spouse, including an
28 unsatisfied obligation to provide support.

29 (4) Home state means the state in which a child lived with a parent
30 or a person acting as parent for at least six (6) consecutive months
31 immediately preceding the time of filing of a petition or comparable pleading
32 for support and, if a child is less than six (6) months old, the state in
33 which the child lived from birth with any of them. A period of temporary
34 absence of any of them is counted as part of the six-month or other period.

35 (5) Income includes earnings or other periodic entitlements to money
36 from any source and any other property subject to withholding for support

1 under the law of this state.

2 (6) _Income-withholding order_ means an order or other legal process
3 directed to an obligor_s employer or other debtor, as defined by the income-
4 withholding law of this state, to withhold support from the income of the
5 obligor.

6 (7) _Initiating state_ means a state in which a proceeding under this
7 chapter or a law substantially similar to this chapter, the Uniform Reciprocal
8 Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of
9 Support Act is filed for forwarding to a responding state.

10 (8) _Initiating tribunal_ means the authorized tribunal in an
11 initiating state.

12 (9) _Issuing state_ means the state in which a tribunal issues a
13 support order or renders a judgment determining parentage.

14 (10) _Issuing tribunal_ means the tribunal that issues a support order
15 or renders a judgment determining parentage.

16 (11) _Law_ includes decisional and statutory law and rules and
17 regulations having the force of law.

18 (12) _Obligee_ means:

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

22 (ii) a state or political subdivision to which the rights under a duty
23 of support or support order have been assigned or which has independent claims
24 based on financial assistance provided to an individual obligee; or

25 (iii) an individual seeking a judgment determining parentage of the
26 individual_s child.

27 (13) _Obligor_ means an individual, or the estate of a decedent:

28 (i) who owes or is alleged to owe a duty of support;

29 (ii) who is alleged but has not been adjudicated to be a parent of a
30 child; or

31 (iii) who is liable under a support order.

32 (14) _Register_ means to file a support order or judgment determining
33 parentage in the appropriate chancery court.

34 (15) _Registering tribunal_ means a tribunal in which a support order
35 is registered.

1 (16) Responding state means a state to which a proceeding is
2 forwarded under this chapter or a law substantially similar to this chapter,
3 the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform
4 Reciprocal Enforcement of Support Act.

5 (17) Responding tribunal means the authorized tribunal in a
6 responding state.

7 (18) Spousal-support order means a support order for a spouse or
8 former spouse of the obligor.

9 (19) State means a state of the United States, the District of
10 Columbia, the Commonwealth of Puerto Rico, or any territory or insular
11 possession subject to the jurisdiction of the United States. The term "state"
12 includes an Indian tribe and includes a foreign jurisdiction that has
13 established procedures for issuance and enforcement of support orders which
14 are substantially similar to the procedures under this chapter.

15 (20) Support enforcement agency means a public official or agency
16 authorized to seek:

17 (i) enforcement of support orders or laws relating to the duty of
18 support;

19 (ii) establishment or modification of child support;

20 (iii) determination of parentage; or

21 (iv) to locate obligors or their assets.

22 (21) Support order means a judgment, decree, or order, whether
23 temporary, final, or subject to modification, for the benefit of a child, a
24 spouse, or a former spouse, which provides for monetary support, health care,
25 arrearages, or reimbursement, and may include related costs and fees,
26 interest, income withholding, attorney_s fees, and other relief.

27 (22) Tribunal means a court, administrative agency, or quasi-judicial
28 entity authorized to establish, enforce, or modify support orders or to
29 determine parentage.

30 §9-17-102. TRIBUNAL OF THIS STATE. The chancery court is the tribunal
31 of this state.

32 §9-17-103. REMEDIES CUMULATIVE. Remedies provided by this chapter are
33 cumulative and do not affect the availability of remedies under other law.

34

35 ARTICLE 2. JURISDICTION

1 PART A. EXTENDED PERSONAL JURISDICTION

2 §9-17-201. BASIS FOR JURISDICTION OVER NONRESIDENT. In a proceeding to
3 establish, enforce, or modify a support order or to determine parentage, a
4 tribunal of this state may exercise personal jurisdiction over a nonresident
5 individual or the individual_s guardian or conservator if:

- 6 (1) the individual is personally served with summons within this state;
- 7 (2) the individual submits to the jurisdiction of this state by
8 consent, by entering a general appearance, or by filing a responsive document
9 having the effect of waiving any contest to personal jurisdiction;
- 10 (3) the individual resided with the child in this state;
- 11 (4) the individual resided in this state and provided prenatal expenses
12 or support for the child;
- 13 (5) the child resides in this state as a result of the acts or
14 directives of the individual;
- 15 (6) the individual engaged in sexual intercourse in this state and the
16 child may have been conceived by that act of intercourse;
- 17 (7) the individual asserted parentage in the putative father registry
18 maintained in this state by the Arkansas Department of Health; or
- 19 (8) there is any other basis consistent with the constitutions of this
20 state and the United States for the exercise of personal jurisdiction.

21 §9-17-202. PROCEDURE WHEN EXERCISING JURISDICTION OVER NONRESIDENT. A
22 tribunal of this state exercising personal jurisdiction over a nonresident
23 under §9-17-201 may apply §9-17-316 (Special Rules of Evidence and Procedure)
24 to receive evidence from another state and §9-17-318 (Assistance with
25 Discovery) to obtain discovery through a tribunal of another state. In all
26 other respects, Articles 3 through 7 do not apply and the tribunal shall apply
27 the procedural and substantive law of this state, including the rules on
28 choice of law other than those established by this chapter.

29

30 PART B. PROCEEDINGS INVOLVING TWO OR MORE STATES

31 §9-17-203. INITIATING AND RESPONDING TRIBUNAL OF THIS STATE. Under
32 this chapter, a tribunal of this state may serve as an initiating tribunal to
33 forward proceedings to another state and as a responding tribunal for
34 proceedings initiated in another state.

35 §9-17-204. SIMULTANEOUS PROCEEDINGS IN ANOTHER STATE.

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

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

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

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

10 (b) A tribunal of this state may not exercise jurisdiction to establish
11 a support order if the petition or comparable pleading is filed before a
12 petition or comparable pleading is filed in another state if:

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

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

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

19 §9-17-205. CONTINUING, EXCLUSIVE JURISDICTION.

20 (a) A tribunal of this state issuing a support order consistent with
21 the law of this state has continuing, exclusive jurisdiction over a child
22 support order:

23 (1) as long as this state remains the residence of the obligor, the
24 individual obligee, or the child for whose benefit the support order is
25 issued; or

26 (2) until each individual party has filed written consent with the
27 tribunal of this state for a tribunal of another state to modify the order and
28 assume continuing, exclusive jurisdiction.

29 (b) A tribunal of this state issuing a child support order consistent
30 with the law of this state may not exercise its continuing jurisdiction to
31 modify the order if the order has been modified by a tribunal of another state
32 pursuant to a law substantially similar to this chapter.

33 (c) If a child support order of this state is modified by a tribunal of
34 another state pursuant to a law substantially similar to this chapter, a
35 tribunal of this state loses its continuing, exclusive jurisdiction with

1 regard to prospective enforcement of the order issued in this state, and may
2 only:

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

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

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

8 (d) A tribunal of this state shall recognize the continuing, exclusive
9 jurisdiction of a tribunal of another state which has issued a child support
10 order pursuant to a law substantially similar to this chapter.

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

14 (f) A tribunal of this state issuing a support order consistent with
15 the law of this state has continuing, exclusive jurisdiction over a spousal
16 support order throughout the existence of the support obligation. A tribunal
17 of this state may not modify a spousal support order issued by a tribunal of
18 another state having continuing, exclusive jurisdiction over that order under
19 the law of that state.

20 §9-17-206. ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER BY TRIBUNAL
21 HAVING CONTINUING JURISDICTION.

22 (a) A tribunal of this state may serve as an initiating tribunal to
23 request a tribunal of another state to enforce or modify a support order
24 issued in that state.

25 (b) A tribunal of this state having continuing, exclusive jurisdiction
26 over a support order may act as a responding tribunal to enforce or modify the
27 order. If a party subject to the continuing, exclusive jurisdiction of the
28 tribunal no longer resides in the issuing state, in subsequent proceedings the
29 tribunal may apply §9-17-316 (Special Rules of Evidence and Procedure) to
30 receive evidence from another state and §9-17-318 (Assistance with Discovery)
31 to obtain discovery through a tribunal of another state.

32 (c) A tribunal of this state which lacks continuing, exclusive
33 jurisdiction over a spousal support order may not serve as a responding
34 tribunal to modify a spousal support order of another state.

35

1 PART C. RECONCILIATION WITH ORDERS OF OTHER STATES

2 §9-17-207. RECOGNITION OF CHILD SUPPORT ORDERS.

3 (a) If a proceeding is brought under this chapter, and one or more
4 child support orders have been issued in this or another state with regard to
5 an obligor and a child, a tribunal of this state shall apply the following
6 rules in determining which order to recognize for purposes of continuing,
7 exclusive jurisdiction:

8 (1) If only one tribunal has issued a child support order, the order of
9 that tribunal must be recognized.

10 (2) If two or more tribunals have issued child support orders for the
11 same obligor and child, and only one of the tribunals would have continuing,
12 exclusive jurisdiction under this chapter, the order of that tribunal must be
13 recognized.

14 (3) If two or more tribunals have issued child support orders for the
15 same obligor and child, and more than one of the tribunals would have
16 continuing, exclusive jurisdiction under this chapter, an order issued by a
17 tribunal in the current home state of the child must be recognized, but if an
18 order has not been issued in the current home state of the child, the order
19 most recently issued must be recognized.

20 (4) If two or more tribunals have issued child support orders for the
21 same obligor and child, and none of the tribunals would have continuing,
22 exclusive jurisdiction under this chapter, the tribunal of this state may
23 issue a child support order, which must be recognized.

24 (b) The tribunal that has issued an order recognized under subsection
25 (a) is the tribunal having continuing, exclusive jurisdiction.

26 §9-17-208. MULTIPLE CHILD SUPPORT ORDERS FOR TWO OR MORE OBLIGEES. In
27 responding to multiple registrations or petitions for enforcement of two or
28 more child support orders in effect at the same time with regard to the same
29 obligor and different individual obligees, at least one of which was issued by
30 a tribunal of another state, a tribunal of this state shall enforce those
31 orders in the same manner as if the multiple orders had been issued by a
32 tribunal of this state.

33 §9-17-209. CREDIT FOR PAYMENTS. Amounts collected and credited for a
34 particular period pursuant to a support order issued by a tribunal of another
35 state must be credited against the amounts accruing or accrued for the same

1 period under a support order issued by the tribunal of this state.

2

3 ARTICLE 3. CIVIL PROVISIONS OF GENERAL APPLICATION

4 §9-17-301. PROCEEDINGS UNDER THIS CHAPTER.

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

7 (b) This chapter provides for the following proceedings:

8 (1) establishment of an order for spousal support or child support
9 pursuant to Article 4;

10 (2) enforcement of a support order and income-withholding order of
11 another state without registration pursuant to Article 5;

12 (3) registration of an order for spousal support or child support of
13 another state for enforcement pursuant to Article 6;

14 (4) modification of an order for child support or spousal support
15 issued by a tribunal of this state pursuant to Article 2, Part B;

16 (5) registration of an order for child support of another state for
17 modification pursuant to Article 6;

18 (6) determination of parentage pursuant to Article 7; and

19 (7) assertion of jurisdiction over nonresidents pursuant to Article 2,
20 Part A.

21 (c) An individual petitioner or a support enforcement agency may
22 commence a proceeding authorized under this chapter by filing a petition in an
23 initiating tribunal for forwarding to a responding tribunal or by filing a
24 petition or a comparable pleading directly in a tribunal of another state
25 which has or can obtain personal jurisdiction over the respondent.

26 §9-17-302. ACTION BY MINOR PARENT. A minor parent, or a guardian or
27 other legal representative of a minor parent, may maintain a proceeding on
28 behalf of or for the benefit of the minor_s child.

29 §9-17-303. APPLICATION OF LAW OF THIS STATE. Except as otherwise
30 provided by this chapter, a responding tribunal of this state:

31 (1) shall apply the procedural and substantive law, including the rules
32 on choice of law, generally applicable to similar proceedings originating in
33 this state and may exercise all powers and provide all remedies available in
34 those proceedings; and

35 (2) shall determine the duty of support and the amount payable in

1 accordance with the law and support guidelines of this state.

2 §9-17-304. DUTIES OF INITIATING TRIBUNAL. Upon the filing of a
3 petition authorized by this chapter, an initiating tribunal of this state
4 shall forward three copies of the petition and its accompanying documents:

5 (1) to the responding tribunal or appropriate support enforcement
6 agency in the responding state; or

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

10 §9-17-305. DUTIES AND POWERS OF RESPONDING TRIBUNAL.

11 (a) When a responding tribunal of this state receives a petition or
12 comparable pleading from an initiating tribunal or directly pursuant to §9-17-
13 301(c) (Proceedings Under This Chapter), it shall cause the petition or
14 pleading to be filed and notify the petitioner by first class mail where and
15 when it was filed.

16 (b) A responding tribunal of this state, to the extent otherwise
17 authorized by law, may do one or more of the following:

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

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

22 (3) order income withholding;

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

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

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

27 (7) place liens and order execution on the obligor_s property;

28 (8) order an obligor to keep the tribunal informed of the obligor_s
29 current residential address, telephone number, employer, address of
30 employment, and telephone number at the place of employment;

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

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

1 (11) award reasonable attorney_s fees and other fees and costs; and
2 (12) grant any other available remedy.

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

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

9 (e) If a responding tribunal of this state issues an order under this
10 chapter, the tribunal shall send a copy of the order by first class mail to
11 the petitioner and the respondent and to the initiating tribunal, if any.

12 §9-17-306. INAPPROPRIATE TRIBUNAL. If a petition or comparable
13 pleading is received by an inappropriate tribunal of this state, it shall
14 forward the pleading and accompanying documents to an appropriate tribunal in
15 this state or another state and notify the petitioner by first class mail
16 where and when the pleading was sent.

17 §9-17-307. DUTIES OF SUPPORT ENFORCEMENT AGENCY.

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

20 (b) A support enforcement agency that is providing services to the
21 petitioner as appropriate shall:

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

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

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

28 (4) within two (2) days, exclusive of Saturdays, Sundays and legal
29 holidays, after receipt of a written notice from an initiating, responding, or
30 registering tribunal, send a copy of the notice by first class mail to the
31 petitioner;

32 (5) within two (2) days, exclusive of Saturdays, Sundays and legal
33 holidays, after receipt of a written communication from the respondent or the
34 respondent_s attorney, send a copy of the communication by first class mail to
35 the petitioner; and

1 (6) notify the petitioner if jurisdiction over the respondent cannot be
2 obtained.

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

7 §9-17-308. DUTY OF PROSECUTING ATTORNEY. If the prosecuting attorney
8 determines that the support enforcement agency is neglecting or refusing to
9 provide services to an individual, the prosecuting attorney may provide those
10 services directly to the individual.

11 §9-17-309. PRIVATE COUNSEL. An individual may employ private counsel
12 to represent the individual in proceedings authorized by this chapter.

13 §9-17-310. DUTIES OF STATE INFORMATION AGENCY.

14 (a) The Child Support Enforcement Unit is the state information agency
15 under this chapter.

16 (b) The state information agency shall:

17 (1) compile and maintain a current list, including addresses, of the
18 tribunals in this state which have jurisdiction under this chapter and any
19 support enforcement agencies in this state and transmit a copy to the state
20 information agency of every other state;

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

23 (3) forward to the appropriate tribunal in the place in this state in
24 which the individual obligee or the obligor resides, or in which the obligor_s
25 property is believed to be located, all documents concerning a proceeding
26 under this chapter received from an initiating tribunal or the state
27 information agency of the initiating state; and

28 (4) obtain information concerning the location of the obligor and the
29 obligor_s property within this state not exempt from execution, by such means
30 as postal verification and federal or state locator services, examination of
31 telephone directories, requests for the obligor_s address from employers and
32 examination of governmental records, including, to the extent not prohibited
33 by other law, those relating to real property, vital statistics, law
34 enforcement, taxation, motor vehicles, driver_s licenses and social security.

35 §9-17-311. PLEADINGS AND ACCOMPANYING DOCUMENTS.

1 (a) A petitioner seeking to establish or modify a support order or to
2 determine parentage in a proceeding under this chapter must verify the
3 petition. Unless otherwise ordered under §9-17-312 (Nondisclosure of
4 Information in Exceptional Circumstances), the petition or accompanying
5 documents must provide, so far as known, the name, residential address, and
6 social security numbers of the obligor and the obligee, and the name, sex,
7 residential address, social security number, and date of birth of each child
8 for whom support is sought. The petition must be accompanied by a certified
9 copy of any support order in effect. The petition may include any other
10 information that may assist in locating or identifying the respondent.

11 (b) The petition must specify the relief sought. The petition and
12 accompanying documents must conform substantially with the requirements
13 imposed by the forms mandated by federal law for use in cases filed by a
14 support enforcement agency.

15 §9-17-312. NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES.
16 Upon a finding, which may be made ex parte, that the health, safety, or
17 liberty of a party or child would be unreasonably put at risk by the
18 disclosure of identifying information, or if an existing order so provides, a
19 tribunal shall order that the address of the child or party or other
20 identifying information not be disclosed in a pleading or other document filed
21 in a proceeding under this chapter.

22 §9-17-313. COSTS AND FEES.

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

25 (b) If an obligee prevails, a responding tribunal may assess against an
26 obligor filing fees, reasonable attorney_s fees, other costs, and necessary
27 travel and other reasonable expenses incurred by the obligee and the obligee_s
28 witnesses. The tribunal may not assess fees, costs, or expenses against the
29 obligee or the support enforcement agency of either the initiating or the
30 responding state, except as provided by other law. Attorney_s fees may be
31 taxed as costs, and may be ordered paid directly to the attorney, who may
32 enforce the order in the attorney_s own name. Payment of support owed to the
33 obligee has priority over fees, costs and expenses.

34 (c) The tribunal shall order the payment of costs and reasonable
35 attorney_s fees if it determines that a hearing was requested primarily for

1 delay. In a proceeding under Article 6 (Enforcement and Modification of
2 Support Order After Registration), a hearing is presumed to have been
3 requested primarily for delay if a registered support order is confirmed or
4 enforced without change.

5 §9-17-314. LIMITED IMMUNITY OF PETITIONER.

6 (a) Participation by a petitioner in a proceeding before a responding
7 tribunal, whether in person, by private attorney, or through services provided
8 by the support enforcement agency, does not confer personal jurisdiction over
9 the petitioner in another proceeding.

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

13 (c) The immunity granted by this section does not extend to civil
14 litigation based on acts unrelated to a proceeding under this chapter
15 committed by a party while present in this state to participate in the
16 proceeding.

17 §9-17-315. NONPARENTAGE AS DEFENSE. A party whose parentage of a
18 child has been previously determined by or pursuant to law may not plead
19 nonparentage as a defense to a proceeding under this chapter.

20 §9-17-316. SPECIAL RULES OF EVIDENCE AND PROCEDURE.

21 (a) The physical presence of the petitioner in a responding tribunal of
22 this state is not required for the establishment, enforcement, or modification
23 of a support order or the rendition of a judgment determining parentage.

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

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

33 (d) Copies of bills for testing for parentage, and for prenatal and
34 postnatal health care of the mother and child, furnished to the adverse party
35 at least ten (10) days before trial, are admissible in evidence to prove the

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

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

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

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

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

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

20 §9-17-317. COMMUNICATIONS BETWEEN TRIBUNALS. A tribunal of this state
21 may communicate with a tribunal of another state in writing, or by telephone
22 or other means, to obtain information concerning the laws of that state, the
23 legal effect of a judgment, decree, or order of that tribunal, and the status
24 of a proceeding in the other state. A tribunal of this state may furnish
25 similar information by similar means to a tribunal of another state.

26 §9-17-318. ASSISTANCE WITH DISCOVERY. A tribunal of this state may:

27 (1) request a tribunal of another state to assist in obtaining
28 discovery; and

29 (2) upon request, compel a person over whom it has jurisdiction to
30 respond to a discovery order issued by a tribunal of another state.

31 §9-17-319. RECEIPT AND DISBURSEMENT OF PAYMENTS. A support
32 enforcement agency or tribunal of this state shall disburse promptly any
33 amounts received pursuant to a support order, as directed by the order. The
34 agency or tribunal shall furnish to a requesting party or tribunal of another
35 state a certified statement by the custodian of the record of the amounts and

1 dates of all payments received.

2

3 ARTICLE 4. ESTABLISHMENT OF SUPPORT ORDER

4 §9-17-401. PETITION TO ESTABLISH SUPPORT ORDER.

5 (a) If a support order entitled to recognition under this chapter has
6 not been issued, a responding tribunal of this state may issue a support order
7 if:

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

9 (2) the support enforcement agency seeking the order is located in
10 another state.

11 (b) The tribunal may issue a temporary child support order if:

12 (1) the respondent has signed a verified statement acknowledging
13 parentage;

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

16 (3) there is other clear and convincing evidence that the respondent is
17 the child_s parent.

18 (c) Upon finding, after notice and opportunity to be heard, that an
19 obligor owes a duty of support, the tribunal shall issue a support order
20 directed to the obligor and may issue other orders pursuant to §9-17-305
21 (Duties and Powers of Responding Tribunal).

22

23 ARTICLE 5. DIRECT ENFORCEMENT OF ORDER OF ANOTHER STATE WITHOUT REGISTRATION

24 §9-17-501. RECOGNITION OF INCOME-WITHHOLDING ORDER OF ANOTHER STATE.

25 (a) An income-withholding order issued in another state may be sent by
26 first class mail to the person or entity defined as the obligor_s employer
27 under the income-withholding law of this state without first filing a petition
28 or comparable pleading or registering the order with a tribunal of this state.

29 Upon receipt of the order, the employer shall:

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

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

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

35 (b) An obligor may contest the validity or enforcement of an income-

1 withholding order issued in another state in the same manner as if the order
2 had been issued by a tribunal of this state. Section 9-17-604 (Choice of Law)
3 applies to the contest. The obligor shall give notice of the contest to any
4 support enforcement agency providing services to the obligee and to:

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

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

8 §9-17-502. ADMINISTRATIVE ENFORCEMENT OF ORDERS.

9 (a) A party seeking to enforce a support order or an income-withholding
10 order, or both, issued by a tribunal of another state may send the documents
11 required for registering the order to a support enforcement agency of this
12 state.

13 (b) Upon receipt of the documents, the support enforcement agency,
14 without initially seeking to register the order, shall consider and, if
15 appropriate, use any administrative procedure authorized by the law of this
16 state to enforce a support order or an income-withholding order, or both. If
17 the obligor does not contest administrative enforcement, the order need not be
18 registered. If the obligor contests the validity or administrative
19 enforcement of the order, the support enforcement agency shall register the
20 order pursuant to this chapter.

21

22 ARTICLE 6. ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER AFTER REGISTRATION

23 PART A. REGISTRATION AND ENFORCEMENT OF SUPPORT ORDER

24 §9-17-601. REGISTRATION OF ORDER FOR ENFORCEMENT. A support order or
25 an income-withholding order issued by a tribunal of another state may be
26 registered in this state for enforcement.

27 §9-17-602. PROCEDURE TO REGISTER ORDER FOR ENFORCEMENT.

28 (a) A support order or income-withholding order of another state may be
29 registered in this state by sending the following documents and information to
30 the appropriate chancery court in this state:

31 (1) a letter of transmittal to the tribunal requesting registration and
32 enforcement;

33 (2) two copies, including one certified copy, of all orders to be
34 registered, including any modification of an order;

35 (3) a sworn statement by the party seeking registration or a certified

1 statement by the custodian of the records showing the amount of any arrearage;

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

3 (i) the obligor_s address and social security number;

4 (ii) the name and address of the obligor_s employer and any other
5 source of income of the obligor; and

6 (iii) a description and the location of property of the obligor in this
7 state not exempt from execution; and

8 (5) the name and address of the obligee and, if applicable, the agency
9 or person to whom support payments are to be remitted.

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

13 (c) A petition or comparable pleading seeking a remedy that must be
14 affirmatively sought under other law of this state may be filed at the same
15 time as the request for registration or later. The pleading must specify the
16 grounds for the remedy sought.

17 §9-17-603. EFFECT OF REGISTRATION FOR ENFORCEMENT.

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

21 (b) A registered order issued in another state is enforceable in the
22 same manner and is subject to the same procedures as an order issued by a
23 tribunal of this state.

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

27 §9-17-604. CHOICE OF LAW.

28 (a) The law of the issuing state governs the nature, extent, amount and
29 duration of current payments and other obligations of support and the payment
30 of arrearages under the order.

31 (b) In a proceeding for arrearages, the statute of limitation under the
32 laws of this state or of the issuing state, whichever is longer, applies.

33

34 PART B. CONTEST OF VALIDITY OR ENFORCEMENT

35 §9-17-605. NOTICE OF REGISTRATION OF ORDER.

1 (a) When a support order or income-withholding order issued in another
2 state is registered, the registering tribunal shall notify the nonregistering
3 party. Notice must be given by first class, certified, or registered mail or
4 by any means of personal service authorized by the law of this state. The
5 notice must be accompanied by a copy of the registered order and the documents
6 and relevant information accompanying the order.

7 (b) The 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 tribunal of this
10 state;

11 (2) that a hearing to contest the validity or enforcement of the
12 registered order must be requested within twenty (20) days after the date of
13 mailing or personal service of the notice;

14 (3) that failure to contest the validity or enforcement of the
15 registered order in a timely manner will result in confirmation of the order
16 and enforcement of the order and the alleged arrearages and precludes further
17 contest of that order with respect to any matter that could have been
18 asserted; and

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

20 (c) Upon registration of an income-withholding order for enforcement,
21 the registering tribunal shall notify the obligor_s employer pursuant to the
22 income-withholding law of this state, §16-110-401 et seq.

23 §9-17-606. PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF REGISTERED
24 ORDER.

25 (a) A nonregistering party seeking to contest the validity or
26 enforcement of a registered order in this state shall request a hearing within
27 twenty (20) days after the date of mailing or personal service of notice of
28 the registration. The nonregistering party may seek to vacate the
29 registration, to assert any defense to an allegation of noncompliance with the
30 registered order, or to contest the remedies being sought or the amount of any
31 alleged arrearages pursuant to §9-17-607 (Contest of Registration or
32 Enforcement).

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

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

5 §9-17-607. CONTEST OF REGISTRATION OR ENFORCEMENT.

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

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

11 (2) the order was obtained by fraud;

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

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

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

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

18 (7) the statute of limitation under §9-17-604 (Choice of Law) precludes
19 enforcement of some or all of the arrearages.

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

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

28 §9-17-608. CONFIRMED ORDER. Confirmation of a registered order,
29 whether by operation of law or after notice and hearing, precludes further
30 contest of the order with respect to any matter that could have been asserted
31 at the time of registration.

32

33 PART C. REGISTRATION AND MODIFICATION OF CHILD SUPPORT ORDER

34 §9-17-609. PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF ANOTHER STATE
35 FOR MODIFICATION. A party or support enforcement agency seeking to modify, or

1 to modify and enforce, a child support order issued in another state shall
2 register that order in this state in the same manner provided in Part A of
3 this article if the order has not been registered. A petition for
4 modification may be filed at the same time as a request for registration, or
5 later. The pleading must specify the grounds for modification.

6 §9-17-610. EFFECT OF REGISTRATION FOR MODIFICATION. A tribunal of
7 this state may enforce a child support order of another state registered for
8 purposes of modification, in the same manner as if the order had been issued
9 by a tribunal of this state, but the registered order may be modified only if
10 the requirements of §9-17-611 (Modification of Child Support Order of Another
11 State) have been met.

12 §9-17-611. MODIFICATION OF CHILD SUPPORT ORDER OF ANOTHER STATE.

13 (a) After a child support order issued in another state has been
14 registered in this state, the responding tribunal of this state may modify
15 that order only if, after notice and hearing, it finds that:

16 (1) the following requirements are met:

17 (i) the child, the individual obligee, and the obligor do not reside in
18 the issuing state;

19 (ii) a petitioner who is a nonresident of this state seeks
20 modification; and

21 (iii) the respondent is subject to the personal jurisdiction of the
22 tribunal of this state; or

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

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

32 (c) A tribunal of this state may not modify any aspect of a child
33 support order that may not be modified under the law of the issuing state.

34 (d) On issuance of an order modifying a child support order issued in
35 another state, a tribunal of this state becomes the tribunal of continuing,

1 exclusive jurisdiction.

2 (e) Within thirty (30) days after issuance of a modified child support
3 order, the party obtaining the modification shall file a certified copy of the
4 order with the issuing tribunal which had continuing, exclusive jurisdiction
5 over the earlier order, and in each tribunal in which the party knows that
6 earlier order has been registered.

7 §9-17-612. RECOGNITION OF ORDER MODIFIED IN ANOTHER STATE. A tribunal
8 of this state shall recognize a modification of its earlier child support
9 order by a tribunal of another state which assumed jurisdiction pursuant to a
10 law substantially similar to this chapter and, upon request, except as
11 otherwise provided in this chapter, shall:

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

14 (2) enforce only nonmodifiable aspects of that order;

15 (3) provide other appropriate relief only for violations of that order
16 which occurred before the effective date of the modification; and

17 (4) recognize the modifying order of the other state, upon
18 registration, for the purpose of enforcement.

19

20 ARTICLE 7. DETERMINATION OF PARENTAGE

21 §9-17-701. PROCEEDING TO DETERMINE PARENTAGE.

22 (a) A tribunal of this state may serve as an initiating or responding
23 tribunal in a proceeding brought under this chapter or a law substantially
24 similar to this chapter, the Uniform Reciprocal Enforcement of Support Act, or
25 the Revised Uniform Reciprocal Enforcement of Support Act to determine that
26 the petitioner is a parent of a particular child or to determine that a
27 respondent is a parent of that child.

28 (b) In a proceeding to determine parentage, a responding tribunal of
29 this state shall apply the procedural and substantive law of this state and
30 the rules of this state on choice of law.

31

32 ARTICLE 8. INTERSTATE RENDITION

33 §9-17-801. GROUNDS FOR RENDITION.

34 (a) For purposes of this article, "governor" includes an individual
35 performing the functions of governor or the executive authority of a state

1 covered by this chapter.

2 (b) The governor of this state may:

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

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

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

13 §9-17-802. CONDITIONS OF RENDITION.

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

20 (b) If, under this chapter or a law substantially similar to this
21 chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised
22 Uniform Reciprocal Enforcement of Support Act, the governor of another state
23 makes a demand that the governor of this state surrender an individual charged
24 criminally in that state with having failed to provide for the support of a
25 child or other individual to whom a duty of support is owed, the governor may
26 require a prosecutor to investigate the demand and report whether a proceeding
27 for support has been initiated or would be effective. If it appears that a
28 proceeding would be effective but has not been initiated, the governor may
29 delay honoring the demand for a reasonable time to permit the initiation of a
30 proceeding.

31 (c) If a proceeding for support has been initiated and the individual
32 whose rendition is demanded prevails, the governor may decline to honor the
33 demand. If the petitioner prevails and the individual whose rendition is
34 demanded is subject to a support order, the governor may decline to honor the
35 demand if the individual is complying with the support order.

1

2 ARTICLE 9. MISCELLANEOUS PROVISIONS

3 §9-17-901. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

4 This chapter shall be applied and construed to effectuate its general
5 purpose to make uniform the law with respect to the subject of this chapter
6 among states enacting the Uniform Interstate Family Support Act.

7 §9-17-902. SHORT TITLE. This chapter may be cited as the Uniform
8 Interstate Family Support Act."

9

10 SECTION 2. Arkansas Code §9-14-210 (b) is amended to read as follows:

11 "(b) An attorney employed by the Child Support Enforcement Unit or
12 employed by a county, prosecuting attorney, or local child support enforcement
13 unit pursuant to a cooperative agreement with the Child Support Enforcement
14 Unit shall represent the petitioner instead of the prosecuting attorney in
15 actions brought pursuant to Title IV-D of the Social Security Act under the
16 Uniform Interstate Family Support Act, §9-17-101 et seq."

17

18 SECTION 3. Arkansas Code §9-14-215 (a) (1) is amended to read as
19 follows:

20 "(a) (1) There shall be no filing fee, service fee, or other costs
21 collected from the Child Support Enforcement Unit or any attorney acting on
22 their behalf for actions brought under the Uniform Interstate Family Support
23 Act, §9-17-101 et seq."

24

25 SECTION 4. Arkansas Code §9-27-303 (36) is amended to read as follows:

26 "(36) UIFSA means the Uniform Interstate Family Support Act found in
27 §9-17-101 et seq."

28

29 SECTION 5. Arkansas Code §9-27-306 (b) (3) is amended to read as
30 follows:

31 "(b) (3) UIFSA proceedings, §9-17-101 et seq.; or"

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33 SECTION 6. All provisions of this act of a general and permanent nature
34 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
35 Revision Commission shall incorporate the same in the Code.

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SECTION 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

SECTION 8. (a) All laws and parts of laws in conflict with this act are hereby repealed.

(b) Arkansas Code Section 9-14-301 through 9-14-344 are hereby repealed.

SECTION 9. EMERGENCY. It is hereby found and determined by the General Assembly that currently one in four children in the United States grows up in a single parent household and that millions of these children fail to receive the financial support that they are owed; that this financial support is crucial to sustaining family life and often to averting outright poverty; that children whose parents live in different states suffer for the most since a conflict between jurisdictions can often stand as a serious impediment to the enforcement of a child support order; that this act provides for one-state control of a case and for a clear and efficient method of interstate case processing; and that this act should therefore be given immediate effect. Therefore, an emergency is hereby declared to exist and this act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.

APPROVED: 03/11/93

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