

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

A Bill

SENATE BILL

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

1 from any source and any other property subject to withholding for support
2 under the law of this state.

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

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

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

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

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

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

19 (12) _Obligee_ means:

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

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

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

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

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

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

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

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

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

37 (16) _Responding state_ means a state to which a proceeding is

1 forwarded under this chapter or a law substantially similar to this chapter,
2 the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform
3 Reciprocal Enforcement of Support Act.

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

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

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

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

- 16 (i) enforcement of support orders or laws relating to the duty of
17 support;
- 18 (ii) establishment or modification of child support;
- 19 (iii) determination of parentage; or
- 20 (iv) to locate obligors or their assets.

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

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

29 §9-17-102. TRIBUNAL OF THIS STATE. The chancery court is the tribunal
30 of this state.

31 §9-17-103. REMEDIES CUMULATIVE. Remedies provided by this chapter are
32 cumulative and do not affect the availability of remedies under other law.

33

34 ARTICLE 2. JURISDICTION

35 PART A. EXTENDED PERSONAL JURISDICTION

36 §9-17-201. BASIS FOR JURISDICTION OVER NONRESIDENT. In a proceeding to
37 establish, enforce, or modify a support order or to determine parentage, a

1 tribunal of this state may exercise personal jurisdiction over a nonresident
2 individual or the individual_s guardian or conservator if:

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

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

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

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

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

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

14 (7) the individual asserted parentage in the putative father registry
15 maintained in this state by the Arkansas Department of Health; or

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

18 §9-17-202. PROCEDURE WHEN EXERCISING JURISDICTION OVER NONRESIDENT. A
19 tribunal of this state exercising personal jurisdiction over a nonresident
20 under §9-17-201 may apply §9-17-316 (Special Rules of Evidence and Procedure)
21 to receive evidence from another state and §9-17-318 (Assistance with
22 Discovery) to obtain discovery through a tribunal of another state. In all
23 other respects, Articles 3 through 7 do not apply and the tribunal shall apply
24 the procedural and substantive law of this state, including the rules on
25 choice of law other than those established by this chapter.

26

27 PART B. PROCEEDINGS INVOLVING TWO OR MORE STATES

28 §9-17-203. INITIATING AND RESPONDING TRIBUNAL OF THIS STATE. Under
29 this chapter, a tribunal of this state may serve as an initiating tribunal to
30 forward proceedings to another state and as a responding tribunal for
31 proceedings initiated in another state.

32 §9-17-204. SIMULTANEOUS PROCEEDINGS IN ANOTHER STATE.

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

36 (1) the petition or comparable pleading in this state is filed before
37 the expiration of the time allowed in the other state for filing a responsive

1 pleading challenging the exercise of jurisdiction by the other state;

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

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

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

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

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

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

14 §9-17-205. CONTINUING, EXCLUSIVE JURISDICTION.

15 (a) A tribunal of this state issuing a support order consistent with
16 the law of this state has continuing, exclusive jurisdiction over a child
17 support order:

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

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

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

28 (c) If a child support order of this state is modified by a tribunal of
29 another state pursuant to a law substantially similar to this chapter, a
30 tribunal of this state loses its continuing, exclusive jurisdiction with
31 regard to prospective enforcement of the order issued in this state, and may
32 only:

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

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

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

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

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

7 (f) A tribunal of this state issuing a support order consistent with
8 the law of this state has continuing, exclusive jurisdiction over a spousal
9 support order throughout the existence of the support obligation. A tribunal
10 of this state may not modify a spousal support order issued by a tribunal of
11 another state having continuing, exclusive jurisdiction over that order under
12 the law of that state.

13 §9-17-206. ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER BY TRIBUNAL
14 HAVING CONTINUING JURISDICTION.

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

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

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

28

29 PART C. RECONCILIATION WITH ORDERS OF OTHER STATES

30 §9-17-207. RECOGNITION OF CHILD SUPPORT ORDERS.

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

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

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

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

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

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

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

24 §9-17-209. CREDIT FOR PAYMENTS. Amounts collected and credited for a
25 particular period pursuant to a support order issued by a tribunal of another
26 state must be credited against the amounts accruing or accrued for the same
27 period under a support order issued by the tribunal of this state.

28

29 ARTICLE 3. CIVIL PROVISIONS OF GENERAL APPLICATION

30 §9-17-301. PROCEEDINGS UNDER THIS CHAPTER.

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

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

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

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

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

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

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

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

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

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

15 §9-17-302. ACTION BY MINOR PARENT. A minor parent, or a guardian or
16 other legal representative of a minor parent, may maintain a proceeding on
17 behalf of or for the benefit of the minor_s child.

18 §9-17-303. APPLICATION OF LAW OF THIS STATE. Except as otherwise
19 provided by this chapter, a responding tribunal of this state:

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

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

26 §9-17-304. DUTIES OF INITIATING TRIBUNAL. Upon the filing of a
27 petition authorized by this chapter, an initiating tribunal of this state
28 shall forward three copies of the petition and its accompanying documents:

29 (1) to the responding tribunal or appropriate support enforcement
30 agency in the responding state; or

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

34 §9-17-305. DUTIES AND POWERS OF RESPONDING TRIBUNAL.

35 (a) When a responding tribunal of this state receives a petition or
36 comparable pleading from an initiating tribunal or directly pursuant to §9-17-
37 301(c) (Proceedings Under This Chapter), it shall cause the petition or

1 pleading to be filed and notify the petitioner by first class mail where and
2 when it was filed.

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

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

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

9 (3) order income withholding;

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

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

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

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

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

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

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

23 (11) award reasonable attorney_s fees and other fees and costs; and

24 (12) grant any other available remedy.

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

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

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

34 §9-17-306. INAPPROPRIATE TRIBUNAL. If a petition or comparable
35 pleading is received by an inappropriate tribunal of this state, it shall
36 forward the pleading and accompanying documents to an appropriate tribunal in
37 this state or another state and notify the petitioner by first class mail

1 where and when the pleading was sent.

2 §9-17-307. DUTIES OF SUPPORT ENFORCEMENT AGENCY.

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

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

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

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

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

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

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

21 (6) notify the petitioner if jurisdiction over the respondent cannot be
22 obtained.

23 (c) This chapter does not create or negate a relationship of attorney
24 and client or other fiduciary relationship between a support enforcement
25 agency or the attorney for the agency and the individual being assisted by the
26 agency.

27 §9-17-308. DUTY OF PROSECUTING ATTORNEY. If the prosecuting attorney
28 determines that the support enforcement agency is neglecting or refusing to
29 provide services to an individual, the prosecuting attorney may provide those
30 services directly to the individual.

31 §9-17-309. PRIVATE COUNSEL. An individual may employ private counsel
32 to represent the individual in proceedings authorized by this chapter.

33 §9-17-310. DUTIES OF STATE INFORMATION AGENCY.

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

36 (b) The state information agency shall:

37 (1) compile and maintain a current list, including addresses, of the

1 tribunals in this state which have jurisdiction under this chapter and any
2 support enforcement agencies in this state and transmit a copy to the state
3 information agency of every other state;

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

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

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

18 §9-17-311. PLEADINGS AND ACCOMPANYING DOCUMENTS.

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

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

33 §9-17-312. NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES.

34 Upon a finding, which may be made ex parte, that the health, safety, or
35 liberty of a party or child would be unreasonably put at risk by the
36 disclosure of identifying information, or if an existing order so provides, a
37 tribunal shall order that the address of the child or party or other

1 identifying information not be disclosed in a pleading or other document filed
2 in a proceeding under this chapter.

3 §9-17-313. COSTS AND FEES.

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

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

15 (c) The tribunal shall order the payment of costs and reasonable
16 attorney_s fees if it determines that a hearing was requested primarily for
17 delay. In a proceeding under Article 6 (Enforcement and Modification of
18 Support Order After Registration), a hearing is presumed to have been
19 requested primarily for delay if a registered support order is confirmed or
20 enforced without change.

21 §9-17-314. LIMITED IMMUNITY OF PETITIONER.

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

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

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

33 §9-17-315. NONPARENTAGE AS DEFENSE. A party whose parentage of a
34 child has been previously determined by or pursuant to law may not plead
35 nonparentage as a defense to a proceeding under this chapter.

36 §9-17-316. SPECIAL RULES OF EVIDENCE AND PROCEDURE.

37 (a) The physical presence of the petitioner in a responding tribunal of

1 this state is not required for the establishment, enforcement, or modification
2 of a support order or the rendition of a judgment determining parentage.

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

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

12 (d) Copies of bills for testing for parentage, and for prenatal and
13 postnatal health care of the mother and child, furnished to the adverse party
14 at least ten (10) days before trial, are admissible in evidence to prove the
15 amount of the charges billed and that the charges were reasonable, necessary
16 and customary.

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

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

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

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

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

34 §9-17-317. COMMUNICATIONS BETWEEN TRIBUNALS. A tribunal of this state
35 may communicate with a tribunal of another state in writing, or by telephone
36 or other means, to obtain information concerning the laws of that state, the
37 legal effect of a judgment, decree, or order of that tribunal, and the status

1 of a proceeding in the other state. A tribunal of this state may furnish
2 similar information by similar means to a tribunal of another state.

3 §9-17-318. ASSISTANCE WITH DISCOVERY. A tribunal of this state may:

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

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

8 §9-17-319. RECEIPT AND DISBURSEMENT OF PAYMENTS. A support
9 enforcement agency or tribunal of this state shall disburse promptly any
10 amounts received pursuant to a support order, as directed by the order. The
11 agency or tribunal shall furnish to a requesting party or tribunal of another
12 state a certified statement by the custodian of the record of the amounts and
13 dates of all payments received.

14

15 ARTICLE 4. ESTABLISHMENT OF SUPPORT ORDER

16 §9-17-401. PETITION TO ESTABLISH SUPPORT ORDER.

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

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

21 (2) the support enforcement agency seeking the order is located in
22 another state.

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

24 (1) the respondent has signed a verified statement acknowledging
25 parentage;

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

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

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

34

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

36 §9-17-501. RECOGNITION OF INCOME-WITHHOLDING ORDER OF ANOTHER STATE.

37 (a) An income-withholding order issued in another state may be sent by

1 first class mail to the person or entity defined as the obligor_s employer
2 under the income-withholding law of this state without first filing a petition
3 or comparable pleading or registering the order with a tribunal of this state.

4 Upon receipt of the order, the employer shall:

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

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

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

10 (b) An obligor may contest the validity or enforcement of an income-
11 withholding order issued in another state in the same manner as if the order
12 had been issued by a tribunal of this state. Section 9-17-604 (Choice of Law)
13 applies to the contest. The obligor shall give notice of the contest to any
14 support enforcement agency providing services to the obligee and to:

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

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

18 §9-17-502. ADMINISTRATIVE ENFORCEMENT OF ORDERS.

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

23 (b) Upon receipt of the documents, the support enforcement agency,
24 without initially seeking to register the order, shall consider and, if
25 appropriate, use any administrative procedure authorized by the law of this
26 state to enforce a support order or an income-withholding order, or both. If
27 the obligor does not contest administrative enforcement, the order need not be
28 registered. If the obligor contests the validity or administrative
29 enforcement of the order, the support enforcement agency shall register the
30 order pursuant to this chapter.

31

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

33 PART A. REGISTRATION AND ENFORCEMENT OF SUPPORT ORDER

34 §9-17-601. REGISTRATION OF ORDER FOR ENFORCEMENT. A support order or
35 an income-withholding order issued by a tribunal of another state may be
36 registered in this state for enforcement.

37 §9-17-602. PROCEDURE TO REGISTER ORDER FOR ENFORCEMENT.

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

4 (1) a letter of transmittal to the tribunal requesting registration and
5 enforcement;

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

8 (3) a sworn statement by the party seeking registration or a certified
9 statement by the custodian of the records showing the amount of any arrearage;

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

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

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

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

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

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

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

25 §9-17-603. EFFECT OF REGISTRATION FOR ENFORCEMENT.

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

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

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

35 §9-17-604. CHOICE OF LAW.

36 (a) The law of the issuing state governs the nature, extent, amount and
37 duration of current payments and other obligations of support and the payment

1 of arrearages under the order.

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

4

5 PART B. CONTEST OF VALIDITY OR ENFORCEMENT

6 §9-17-605. NOTICE OF REGISTRATION OF ORDER.

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

13 (b) The notice must inform the nonregistering party:

14 (1) that a registered order is enforceable as of the date of
15 registration in the same manner as an order issued by a tribunal of this
16 state;

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

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

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

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

29 §9-17-606. PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF REGISTERED
30 ORDER.

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

1 Enforcement).

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

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

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

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

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

15 (2) the order was obtained by fraud;

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

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

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

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

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

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

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

32 §9-17-608. CONFIRMED ORDER. Confirmation of a registered order,
33 whether by operation of law or after notice and hearing, precludes further
34 contest of the order with respect to any matter that could have been asserted
35 at the time of registration.

36

37 PART C. REGISTRATION AND MODIFICATION OF CHILD SUPPORT ORDER

1 §9-17-609. PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF ANOTHER STATE
2 FOR MODIFICATION. A party or support enforcement agency seeking to modify, or
3 to modify and enforce, a child support order issued in another state shall
4 register that order in this state in the same manner provided in Part A of
5 this article if the order has not been registered. A petition for
6 modification may be filed at the same time as a request for registration, or
7 later. The pleading must specify the grounds for modification.

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

14 §9-17-611. MODIFICATION OF CHILD SUPPORT ORDER OF ANOTHER STATE.

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

18 (1) the following requirements are met:

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

21 (ii) a petitioner who is a nonresident of this state seeks
22 modification; and

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

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

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

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

36 (d) On issuance of an order modifying a child support order issued in
37 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
36 covered by this chapter.

37 (b) The governor of this state may:

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

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

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

11 §9-17-802. CONDITIONS OF RENDITION.

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

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

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

34

35 ARTICLE 9. MISCELLANEOUS PROVISIONS

36 §9-17-901. UNIFORMITY OF APPLICATION AND CONSTRUCTION.

37 This chapter shall be applied and construed to effectuate its general

1 purpose to make uniform the law with respect to the subject of this chapter
2 among states enacting the Uniform Interstate Family Support Act.

3 §9-17-902. SHORT TITLE. This chapter may be cited as the _Uniform
4 Interstate Family Support Act_."

5

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

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

13

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

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

20

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

22 "(36) _UIFSA_ means the Uniform Interstate Family Support Act found in
23 §9-17-101 et seq."

24

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

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

28

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

32

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

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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.

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