

Stricken language has been deleted from present law. Underlined language has been added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997
4

As Engrossed: S2/6/97

A Bill

SENATE BILL 29

5 By: Senator Mahony
6
7

For An Act To Be Entitled

9 "AN ACT TO MAKE VARIOUS TECHNICAL AMENDMENTS TO THE
10 UNIFORM INTERSTATE FAMILY SUPPORT ACT; AND FOR OTHER
11 PURPOSES."
12

Subtitle

13
14 "TO MAKE VARIOUS TECHNICAL AMENDMENTS TO
15 THE UNIFORM INTERSTATE FAMILY SUPPORT
16 ACT."
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code 9-17-101(7) is amended to read as follows:

21 "(7) Initiating state means a state ~~in~~ from which a proceeding is
22 forwarded or in which a proceeding is filed for forwarding to a responding
23 state under this chapter or a law or procedure substantially similar to this
24 chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised
25 Uniform Reciprocal Enforcement of Support Act ~~is filed for forwarding to a~~
26 ~~responding state.~~"
27

28 SECTION 2. Arkansas Code 9-17-101(16) is amended to read as follows:

29 "(16) Responding state means a state ~~to~~ in which a proceeding is filed
30 or to which a proceeding is forwarded for filing from an initiating state
31 under this chapter or a law or procedure substantially similar to this
32 chapter, the Uniform Reciprocal Enforcement of Support Act, or the Revised
33 Uniform Reciprocal Enforcement of Support Act."
34

35 SECTION 3. Arkansas Code 9-17-101(19) is amended to read as follows:

36 "(19) State means a state of the United States, the District of

1 Columbia, ~~the Commonwealth of~~ Puerto Rico, the United States Virgin Islands,
2 or any territory or insular possession subject to the jurisdiction of the
3 United States. The term ~~state~~ includes:

- 4 (i) an Indian tribe; and ~~includes~~
5 (ii) a foreign jurisdiction that has enacted a law or established
6 procedures for issuance and enforcement of support orders which are
7 substantially similar to the procedures under this chapter, the Uniform
8 Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal
9 Enforcement of Support Act."

10

11 SECTION 4. Arkansas Code 9-17-205(a) is amended to read as follows:

12 "(a) A tribunal of this state issuing a support order consistent with
13 the law of this state has continuing, exclusive jurisdiction over a child
14 support order:

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

18 (2) until ~~each individual party has~~ all of the parties who are
19 individuals have filed written ~~consent~~ consents with the tribunal of this
20 state for a tribunal of another state to modify the order and assume
21 continuing, exclusive jurisdiction."

22

23 SECTION 5. Arkansas Code 9-17-207 is amended to read as follows:

24 "9-17-207. Recognition of controlling child support ~~orders~~ order.

25 ~~— (a) If a proceeding is brought under this chapter, and one (1) or more~~
26 ~~child support orders have been issued in this or another state with regard to~~
27 ~~an obligor and a child, a tribunal of this state shall apply the following~~
28 ~~rules in determining which order to recognize for purposes of continuing,~~
29 ~~exclusive jurisdiction:~~

30 ~~— (1) If only one (1) tribunal has issued a child support order, the order~~
31 ~~of that tribunal must be recognized.~~

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

36 ~~— (3) If two (2) or more tribunals have issued child support orders for the~~

~~1 same obligor and child, and more than one (1) of the tribunals would have
2 continuing, exclusive jurisdiction under this chapter, an order issued by a
3 tribunal in the current home state of the child must be recognized, but if an
4 order has not been issued in the current home state of the child, the order
5 most recently issued must be recognized.~~

~~6 — (4) If two (2) or more tribunals have issued child support orders for
7 the same obligor and child, and none of the tribunals would have continuing,
8 exclusive jurisdiction under this chapter, the tribunal of this state may
9 issue a child support order, which must be recognized.~~

~~10 — (b) The tribunal that has issued an order recognized under subsection (a)
11 is the tribunal having continuing, exclusive jurisdiction.~~

12 (a) If a proceeding is brought under this chapter and only one tribunal
13 has issued a child support order, the order of that tribunal controls and must
14 be so recognized.

15 (b) If a proceeding is brought under this chapter, and two or more
16 child support orders have been issued by tribunals of this State or another
17 state with regard to the same obligor and child, a tribunal of this State
18 shall apply the following rules in determining which order to recognize for
19 purposes of continuing, exclusive jurisdiction:

20 (1) If only one of the tribunals would have continuing, exclusive
21 jurisdiction under this chapter, the order of that tribunal controls and must
22 be so recognized.

23 (2) If more than one of the tribunals would have continuing,
24 exclusive jurisdiction under this chapter, an order issued by a tribunal in
25 the current home state of the child controls and must be so recognized, but if
26 an order has not been issued in the current home state of the child, the order
27 most recently issued controls and must be so recognized.

28 (3) If none of the tribunals would have continuing, exclusive
29 jurisdiction under this chapter, the tribunal of this State having
30 jurisdiction over the parties shall issue a child support order, which
31 controls and must be so recognized.

32 (c) If two or more child support orders have been issued for the same
33 obligor and child and if the obligor or the individual obligee resides in this
34 State, a party may request a tribunal of this State to determine which order
35 controls and must be so recognized under subsection (b). The request must be
36 accompanied by a certified copy of every support order in effect. The

1 requesting party shall give notice of the request to each party whose rights
2 may be affected by the determination.

3 (d) The tribunal that issued the controlling order under subsection
4 (a), (b), or (c), is the tribunal that has continuing, exclusive jurisdiction
5 under Section 9-17-205.

6 (e) A tribunal of this State which determines by order the identity of
7 the controlling order under subsection (b)(1) or (2) or which issues a new
8 controlling order under subsection (b)(3) shall state in that order the basis
9 upon which the tribunal made its determination.

10 (f) Within thirty (30) days after issuance of an order determining the
11 identity of the controlling order, the party obtaining the order shall file a
12 certified copy of it with each tribunal that issued or registered an earlier
13 order of child support. A party who obtains the order and fails to file a
14 certified copy is subject to appropriate sanctions by a tribunal in which the
15 issue of failure to file arises. The failure to file does not affect the
16 validity or enforceability of the controlling order."

17

18 SECTION 6. Arkansas Code 9-17-301(b) is amended to read as follows:

19 "(b) This chapter provides for the following proceedings:

20 (1) establishment of an order for spousal support or child support
21 pursuant to article 4;

22 (2) enforcement of a support order and income-withholding order of
23 another state without registration pursuant to article 5;

24 (3) registration of an order for spousal support or child support of
25 another state for enforcement pursuant to article 6;

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

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

30 (6) determination of parentage pursuant to article 7; and

31 (7) assertion of jurisdiction over nonresidents pursuant to article 2,
32 Part ~~A~~ 1."

33

34 SECTION 7. Arkansas Code 9-17-304 is amended to read as follows:

35 "9-17-304. Duties of initiating tribunal.

36 (a) Upon the filing of a petition authorized by this chapter, an

1 initiating tribunal of this state shall forward three copies of the petition
2 and its accompanying documents:

3 (1) to the responding tribunal or appropriate support enforcement agency
4 in the responding state; or

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

8 (b) If a responding state has not enacted this chapter or a law or
9 procedure substantially similar to this chapter, a tribunal of this State may
10 issue a certificate or other document and make findings required by the law of
11 the responding state. If the responding state is a foreign jurisdiction, the
12 tribunal may specify the amount of support sought and provide other documents
13 necessary to satisfy the requirements of the responding state."
14

15 SECTION 8. Arkansas Code 9-17-305(a) is amended to read as follows:

16 "(a) When a responding tribunal of this state receives a petition or
17 comparable pleading from an initiating tribunal or directly pursuant to § 9-
18 17-301(c) (Proceedings under this chapter), it shall cause the petition or
19 pleading to be filed and notify the petitioner ~~by first class mail~~ where and
20 when it was filed."
21

22 SECTION 9. Arkansas Code 9-17-305(e) is amended to read as follows:

23 "(e) If a responding tribunal of this state issues an order under this
24 chapter, the tribunal shall send a copy of the order ~~by first class mail~~ to
25 the petitioner and the respondent and to the initiating tribunal, if any."
26

27 SECTION 10. Arkansas Code 9-17-306 is amended to read as follows:

28 "9-17-306. Inappropriate tribunal.

29 If a petition or comparable pleading is received by an inappropriate
30 tribunal of this state, it shall forward the pleading and accompanying
31 documents to an appropriate tribunal in this state or another state and notify
32 the petitioner ~~by first class mail~~ where and when the pleading was sent."
33

34 SECTION 11. Arkansas Code 9-17-307(b) is amended to read as follows:

35 "(b) A support enforcement agency that is providing services to the
36 petitioner as appropriate shall:

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

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

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

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

11 (5) within two (2) days, exclusive of Saturdays, Sundays, and legal
12 holidays, after receipt of a written communication from the respondent or the
13 respondent's attorney, send a copy of the communication ~~by first class mail~~ to
14 the petitioner; and

15 (6) notify the petitioner if jurisdiction over the respondent cannot be
16 obtained."

17

18 SECTION 12. Subchapter 5 of Chapter 17 of Title 9 of the Arkansas Code
19 is amended to read as follows:

20 "9-17-501. ~~Recognition~~ Employers receipt of income-withholding order of
21 another state.

22 ~~— (a) An income-withholding order issued in another state may be sent by~~
23 ~~first class mail to the person or entity defined as the obligor's employer~~
24 ~~under the income-withholding law of this state without first filing a petition~~
25 ~~or comparable pleading or registering the order with a tribunal of this state.~~
26 ~~Upon receipt of the order, the employer shall:~~

27 ~~— (1) treat an income-withholding order issued in another state which~~
28 ~~appears regular on its face as if it had been issued by a tribunal of this~~
29 ~~state;~~

30 ~~— (2) immediately provide a copy of the order to the obligor; and~~

31 ~~— (3) distribute the funds as directed in the withholding order.~~

32 ~~— (b) An obligor may contest the validity or enforcement of an~~
33 ~~income-withholding order issued in another state in the same manner as if the~~
34 ~~order had been issued by a tribunal of this state. Section 9-17-604 (Choice~~
35 ~~of law) applies to the contest. The obligor shall give notice of the contest~~
36 ~~to any support enforcement agency providing services to the obligee and to:~~

1 ~~— (1) the person or agency designated to receive payments in the~~
2 ~~income-withholding order; or~~

3 ~~— (2) if no person or agency is designated, the obligee.~~

4
5 9-17-502. Employers Compliance with income-withholding order of
6 another state.

7 (a) Upon receipt of an income-withholding order, the obligors employer
8 shall immediately provide a copy of the order to the obligor.

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

12 (c) Except as otherwise provided in subsection (d) and Section 9-17-503,
13 the employer shall withhold and distribute the funds as directed in the
14 withholding order by complying with terms of the order which specify:

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

17 (2) the person or agency designated to receive payments and the
18 address to which the payments are to be forwarded;

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

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

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

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

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

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

34 (3) the times within which the employer must implement the
35 withholding order and forward the child support payment.

36

1 9-17-503. Compliance with multiple income-withholding orders.

2 If an obligor's employer receives multiple income-withholding orders
3 with respect to the earnings of the same obligor, the employer satisfies the
4 terms of the multiple orders if the employer complies with the law of the
5 state of the obligor's principal place of employment to establish the
6 priorities for withholding and allocating income withheld for multiple child
7 support obligees.

8

9 9-17-504. Immunity from civil liability.

10 An employer who complies with an income-withholding order issued in
11 another state in accordance with this article is not subject to civil
12 liability to an individual or agency with regard to the employer's
13 withholding of child support from the obligor's income.

14

15 9-17-505. Penalties for noncompliance.

16 An employer who willfully fails to comply with an income-withholding
17 order issued by another state and received for enforcement is subject to the
18 same penalties that may be imposed for noncompliance with an order issued by a
19 tribunal of this State.

20

21 9-17-506. Contest by obligor.

22 (a) An obligor may contest the validity or enforcement of an income-
23 withholding order issued in another state and received directly by an employer
24 in this State in the same manner as if the order had been issued by a tribunal
25 of this State. Section 9-17-604 (Choice of Law) applies to the contest.

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

27 (1) a support enforcement agency providing services to the
28 obligee;

29 (2) each employer that has directly received an income-withholding
30 order; and

31 (3) the person or agency designated to receive payments in the
32 income-withholding order or if no person or agency is designated, to the
33 obligee.

34

35 ~~9-17-502~~ 9-17-507. Administrative enforcement of orders.

36 (a) A party seeking to enforce a support order or an income-withholding

1 order, or both, issued by a tribunal of another state may send the documents
2 required for registering the order to a support enforcement agency of this
3 State.

4 (b) Upon receipt of the documents, the support enforcement agency,
5 without initially seeking to register the order, shall consider and, if
6 appropriate, use any administrative procedure authorized by the law of this
7 State to enforce a support order or an income-withholding order, or both. If
8 the obligor does not contest administrative enforcement, the order need not be
9 registered. If the obligor contests the validity or administrative enforcement
10 of the order, the support enforcement agency shall register the order pursuant
11 to this chapter."

12

13 SECTION 13. Arkansas Code 9-17-605(a) is amended to read as follows:

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

20 SECTION 14. Arkansas Code 9-17-605(b) is amended to read as follows:

21 '(b) The notice must inform the nonregistering party:

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

25 (2) that a hearing to contest the validity or enforcement of the
26 registered order must be requested within twenty (20) days after ~~the date of~~
27 ~~mailing or personal service of the notice.~~

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

33 (4) of the amount of any alleged arrearages.'

34

35 SECTION 15. Arkansas Code 9-17-606(a) is amended to read as follows:

36 '(a) A nonregistering party seeking to contest the validity or

1 enforcement of a registered order in this state shall request a hearing within
2 twenty (20) days after ~~the date of mailing or personal service of~~ notice of
3 the registration. The nonregistering party may seek to vacate the
4 registration, to assert any defense to an allegation of noncompliance with the
5 registered order, or to contest the remedies being sought or the amount of any
6 alleged arrearages pursuant to ~~§~~ 9-17-607 (Contest of registration or
7 enforcement).'

8

9 SECTION 16. Arkansas Code 9-17-606(c) is amended to read as follows:

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

14

15 SECTION 17. Arkansas Code 9-17-609 is amended to read as follows:

16 "9-17-609. Procedure to register child support order of another state
17 for modification.

18 A party or support enforcement agency seeking to modify, or to modify
19 and enforce, a child support order issued in another state shall register that
20 order in this state in the same manner provided in Part A 1 of this article,
21 if the order has not been registered. A petition for modification may be
22 filed at the same time as a request for registration, or later. The pleading
23 must specify the grounds for modification."

24

25 SECTION 18. Arkansas Code 9-17-611 is amended to read as follows:

26 "9-17-611. Modification of child support order of another state.

27 (a) After a child support order issued in another state has been
28 registered in this state, the responding tribunal of this state may modify
29 that order only if Section 9-17-613 does not apply and after notice and
30 hearing, it finds that:

31 (1) the following requirements are met:

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

34 (ii) a petitioner who is a nonresident of this state seeks
35 modification; and

36 (iii) the respondent is subject to the personal jurisdiction of

1 the tribunal of this state; or

2 (2) ~~an individual party or~~ the child, or a party who is an individual,
3 is subject to the personal jurisdiction of the tribunal of this State and all
4 of the ~~individual~~ parties who are individuals have filed ~~a written consent~~
5 consents in the issuing tribunal ~~providing that~~ for a tribunal of this state
6 ~~may~~ to modify the support order and assume continuing, exclusive jurisdiction
7 over the order. However, if the issuing state is a foreign jurisdiction that
8 has not enacted a law or established procedures substantially similar to the
9 procedures under this chapter, the consent otherwise required of an individual
10 residing in this State is not required for the tribunal to assume jurisdiction
11 to modify the child support order.

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

16 (c) A tribunal of this state may not modify any aspect of a child
17 support order that may not be modified under the law of the issuing state. If
18 two or more tribunals have issued child support orders for the same obligor
19 and child, the order that controls and must be so recognized under Section 9-
20 17-207 establishes the aspects of the support order which are nonmodifiable.

21 (d) On issuance of an order modifying a child support order issued in
22 another state, a tribunal of this State becomes the tribunal ~~of~~ having
23 continuing, exclusive jurisdiction.

24 ~~(e) Within thirty (30) days after issuance of a modified child support~~
25 ~~order, the party obtaining the modification shall file a certified copy of the~~
26 ~~order with the issuing tribunal which had continuing, exclusive jurisdiction~~
27 ~~over the earlier order, and in each tribunal in which the party knows that~~
28 ~~earlier order has been registered."~~

29

30 SECTION 19. Subchapter 6 of Chapter 17 of Title 9 of the Arkansas Code
31 is amended by inserting two additional sections at the end thereof to read as
32 follows:

33 "9-17-613. Jurisdiction to modify child support order of another state
34 when individual parties reside in this State.

35 (a) If all of the parties who are individuals reside in this State and
36 the child does not reside in the issuing state, a tribunal of this State has

1 jurisdiction to enforce and to modify the issuing states child support order
2 in a proceeding to register that order.

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

7
8 9-17-614. Notice to issuing tribunal of modification.

9 Within thirty (30) days after issuance of a modified child support
10 order, the party obtaining the modification shall file a certified copy of the
11 order with the issuing tribunal that had continuing, exclusive jurisdiction
12 over the earlier order, and in each tribunal in which the party knows the
13 earlier order has been registered. A party who obtains the order and fails to
14 file a certified copy is subject to appropriate sanctions by a tribunal in
15 which the issue of failure to file arises. The failure to file does not
16 affect the validity or enforceability of the modified order of the new
17 tribunal having continuing, exclusive jurisdiction."

18
19 SECTION 20. The Arkansas Code Revision Commission is hereby directed to
20 redesignate Parts A, B, and C of Article 2 of the Uniform Interstate Family
21 Support Act as Parts 1, 2 and 3 of Article 2, and to redesignate Parts A, B,
22 and C of Article 6 of the Uniform Interstate Family Support Act as Parts 1, 2
23 and 3 of Article 6.

24
25 SECTION 21. All provisions of this act of a general and permanent
26 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
27 Code Revision Commission shall incorporate the same in the Code.

28
29 SECTION 22. If any provision of this act or the application thereof to
30 any person or circumstance is held invalid, such invalidity shall not affect
31 other provisions or applications of the act which can be given effect without
32 the invalid provision or application, and to this end the provisions of this
33 act are declared to be severable.

34
35 SECTION 23. All laws and parts of laws in conflict with this act are
36 hereby repealed.

