

UNIFORM INTERSTATE FAMILY SUPPORT ACT

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: David G. Butterfield

LONG TITLE

General Description:

This bill makes conforming amendments required by the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance.

Highlighted Provisions:

This bill:

- ▶ provides procedures for recognizing foreign support orders;
- ▶ defines "convention," "foreign country," "foreign support order," and "foreign tribunal"; and
- ▶ incorporates provisions for the filing, modification, and enforcement of support orders issued by foreign countries that have comity with the United States.

Money Appropriated in this Bill:

None

Other Special Clauses:

§→ [None] This bill takes effect on July 1, 2013. ←§

Utah Code Sections Affected:

AMENDS:

- 78B-14-102**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-14-103**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-14-104**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 78B-14-201**, as renumbered and amended by Laws of Utah 2008, Chapter 3



- 28 **78B-14-203**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 29 **78B-14-204**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 30 **78B-14-206**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 31 **78B-14-207**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 32 **78B-14-208**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 33 **78B-14-209**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 34 **78B-14-210**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 35 **78B-14-211**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 36 **78B-14-301**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 37 **78B-14-304**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 38 **78B-14-305**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 39 **78B-14-307**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 40 **78B-14-308**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 41 **78B-14-310**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 42 **78B-14-311**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 43 **78B-14-313**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 44 **78B-14-316**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 45 **78B-14-317**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 46 **78B-14-318**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 47 **78B-14-319**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 48 **78B-14-401**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 49 **78B-14-504**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 50 **78B-14-505**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 51 **78B-14-507**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 52 **78B-14-601**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 53 **78B-14-602**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 54 **78B-14-603**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 55 **78B-14-604**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 56 **78B-14-605**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 57 **78B-14-606**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 58 **78B-14-607**, as renumbered and amended by Laws of Utah 2008, Chapter 3

- 59 **78B-14-608**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 60 **78B-14-609**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 61 **78B-14-610**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 62 **78B-14-611**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 63 **78B-14-615**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 64 **78B-14-901**, as renumbered and amended by Laws of Utah 2008, Chapter 3

65 ENACTS:

- 66 **78B-14-105**, Utah Code Annotated 1953
- 67 **78B-14-616**, Utah Code Annotated 1953
- 68 **78B-14-701.5**, Utah Code Annotated 1953
- 69 **78B-14-702**, Utah Code Annotated 1953
- 70 **78B-14-703**, Utah Code Annotated 1953
- 71 **78B-14-704**, Utah Code Annotated 1953
- 72 **78B-14-705**, Utah Code Annotated 1953
- 73 **78B-14-706**, Utah Code Annotated 1953
- 74 **78B-14-707**, Utah Code Annotated 1953
- 75 **78B-14-708**, Utah Code Annotated 1953
- 76 **78B-14-709**, Utah Code Annotated 1953
- 77 **78B-14-710**, Utah Code Annotated 1953
- 78 **78B-14-711**, Utah Code Annotated 1953
- 79 **78B-14-712**, Utah Code Annotated 1953
- 80 **78B-14-713**, Utah Code Annotated 1953
- 81 **78B-14-902**, Utah Code Annotated 1953

82 RENUMBERS AND AMENDS:

- 83 **78B-14-402**, (Renumbered from 78B-14-701, as renumbered and amended by Laws of
- 84 Utah 2008, Chapter 3)



86 *Be it enacted by the Legislature of the state of Utah:*

87 Section 1. Section **78B-14-102** is amended to read:

88 **78B-14-102. Definitions.**

89 [~~It~~] As used in this chapter:

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

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

95 (3) "Convention" means the convention on the International Recovery of Child Support
96 and Other Forms of Family Maintenance, concluded at The Hague on November 23, 2007.

97 [~~3~~] (4) "Duty of support" means an obligation imposed or imposable by law to
98 provide support for a child, spouse, or former spouse, including an unsatisfied obligation to
99 provide support.

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

102 (a) which has been declared under the law of the United States to be a foreign
103 reciprocating country;

104 (b) which has established a reciprocal arrangement for child support with this state as
105 provided in Section 78B-14-308;

106 (c) which has enacted a law or established procedures for the issuance and enforcement
107 of support orders which are substantially similar to the procedures under this chapter; or

108 (d) in which the convention is in force with respect to the United States.

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

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

113 [~~4~~] (8) "Home state" means the state or foreign country in which a child lived with a
114 parent or a person acting as parent for at least six consecutive months immediately preceding
115 the time of filing of a petition or comparable pleading for support and, if a child is less than six
116 months old, the state or foreign country in which the child lived from birth with any of them.
117 A period of temporary absence of any of them is counted as part of the six-month or other
118 period.

119 [~~5~~] (9) "Income" includes earnings or other periodic entitlements to money from any
120 source and any other property subject to withholding for support under the law of this state.

121 ~~[(6)]~~ (10) "Income-withholding order" means an order or notice directed to an obligor's
 122 employer or other source of income as defined in Section 62A-11-103, to withhold support
 123 from the income of the obligor in accordance with Title 62A, Chapter 11, Part 4, Income
 124 Withholding in IV-D Cases, or Part 5, Income Withholding in Non IV-D Cases.

125 ~~[(7)]~~ ~~"Initiating state" means a state from which a proceeding is forwarded or in which a~~
 126 ~~proceeding is filed for forwarding to a responding state under this chapter or a law or procedure~~
 127 ~~substantially similar to this chapter.]~~

128 ~~[(8)]~~ (11) "Initiating tribunal" means the ~~[authorized]~~ tribunal ~~[in an initiating state:]~~ of
 129 a state or foreign country from which a petition or comparable pleading is forwarded or in
 130 which a petition or comparable pleading is filed for forwarding to another state or foreign
 131 country.

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

134 ~~[(9)]~~ (13) "Issuing state" means the state in which a tribunal issues a support order or
 135 ~~[renders]~~ a judgment determining parentage of a child.

136 ~~[(10)]~~ (14) "Issuing tribunal" means the tribunal of a state or foreign country that issues
 137 a support order or ~~[renders]~~ a judgment determining parentage of a child.

138 ~~[(11)]~~ (15) "Law" includes decisional and statutory law and rules and regulations
 139 having the force of law.

140 ~~[(12)]~~ (16) "Obligee" means:

141 (a) an individual to whom a duty of support is or is alleged to be owed or in whose
 142 favor a support order ~~[has been issued]~~ or a judgment determining parentage of a child has
 143 been ~~[rendered]~~ issued;

144 (b) a foreign country, state, or political subdivision of a state to which the rights under
 145 a duty of support or support order have been assigned or which has independent claims based
 146 on financial assistance provided to an individual obligee in place of child support; ~~[or]~~

147 (c) an individual seeking a judgment determining parentage of the individual's child~~[-];~~
 148 or

149 (d) a person who is a creditor in a proceeding under Part 7, Support Proceedings under
 150 Convention.

151 ~~[(13)]~~ (17) "Obligor" means an individual who, or the estate of a decedent ~~[who]~~ that:

152 (a) owes or is alleged to owe a duty of support;
 153 (b) is alleged but has not been adjudicated to be a parent of a child; ~~or~~
 154 (c) is liable under a support order~~[-]; or~~
 155 (d) is a debtor in a proceeding under Part 7, Support Proceedings under Convention.
 156 (18) "Outside this state" means a location in another state or a country other than the
 157 United States, whether or not the country is a foreign country.

158 ~~[(14)]~~ (19) "Person" means an individual, corporation, business trust, estate, trust,
 159 partnership, limited liability company, association, joint venture, government, governmental
 160 subdivision, agency, or instrumentality, public corporation, or any other legal or commercial
 161 entity.

162 ~~[(15)]~~ (20) "Record" means information that is inscribed on a tangible medium or that
 163 is stored in an electronic or other medium and is retrievable in perceivable form.

164 ~~[(16)]~~ (21) "Register" means to file in a tribunal of this state a support order or
 165 judgment determining parentage ~~[in the district court]~~ of a child issued in another state or a
 166 foreign country.

167 ~~[(17)]~~ (22) "Registering tribunal" means a tribunal in which a support order of
 168 judgment determining parentage of a child is registered.

169 ~~[(18)]~~ (23) "Responding state" means a state in which a ~~[proceeding]~~ petition ~~§→ [of] or ←§~~
 170 comparable pleading for support or to determine parentage of a child is filed or to which a
 171 ~~[proceeding]~~ petition or comparable pleading is forwarded for filing from ~~[an initiating state~~
 172 ~~under this chapter or a law or procedure substantially similar to this chapter]~~ another state or a
 173 foreign country.

174 ~~[(19)]~~ (24) "Responding tribunal" means the authorized tribunal in a responding state.

175 ~~[(20)]~~ (25) "Spousal support order" means a support order for a spouse or former
 176 spouse of the obligor.

177 ~~[(21)]~~ (26) "State" means a state of the United States, the District of Columbia, Puerto
 178 Rico, the United States Virgin Islands, or any territory or insular possession subject to the
 179 jurisdiction of the United States. The term includes~~[-(a)]~~ an Indian nation or tribe~~[-and].~~

180 ~~[(b) a foreign country or political subdivision that:]~~

181 ~~[(i) has been declared to be a foreign reciprocating country or political subdivision~~
 182 ~~under federal law;]~~

183 ~~[(ii) has established a reciprocal arrangement for child support with this state as~~
 184 ~~provided in Section 78B-14-208; or]~~

185 ~~[(iii) has enacted a law or established procedures for issuance and enforcement of~~
 186 ~~support orders which are substantially similar to the procedures under this chapter.]~~

187 ~~[(22)] (27)~~ "Support enforcement agency" means a public official ~~[or], governmental~~
 188 ~~entity, or private agency authorized to [seek]:~~

189 (a) seek enforcement of support orders or laws relating to the duty of support;

190 (b) seek establishment or modification of child support;

191 (c) request determination of parentage of a child;

192 (d) ~~[location of]~~ attempt to locate obligors or their assets; or

193 (e) request determination of the controlling child support order.

194 ~~[(23)] (28)~~ "Support order" means a judgment, decree, order, decision, or directive,
 195 whether temporary, final, or subject to modification, issued ~~[by a tribunal]~~ in a state or foreign
 196 country for the benefit of a child, a spouse, or a former spouse, which provides for monetary
 197 support, health care, arrearages, retroactive support, or reimbursement~~[-and]~~ for financial
 198 assistance provided to an individual obligee in place of child support. The term may include
 199 related costs and fees, interest, income withholding, automatic adjustment, reasonable attorney
 200 fees, and other relief.

201 ~~[(24)] (29)~~ "Tribunal" means a court, administrative agency, or quasi-judicial entity
 202 authorized to establish, enforce, or modify support orders or to determine parentage of a child.

203 Section 2. Section **78B-14-103** is amended to read:

204 **78B-14-103. State tribunal and support enforcement agency.**

205 (1) The district court and the Utah Department of Human Services are the tribunals of
 206 this state.

207 (2) The Utah Department of Human Services is the state support enforcement agency.

208 Section 3. Section **78B-14-104** is amended to read:

209 **78B-14-104. Remedies cumulative.**

210 (1) Remedies provided by this chapter are cumulative and do not affect the availability
 211 of remedies under other law~~[-including]~~ or the recognition of a foreign support order ~~[of a~~
 212 ~~foreign country or political subdivision]~~ on the basis of comity.

213 (2) This chapter does not:

214 (a) provide the exclusive method of establishing or enforcing a support order under the
215 law of this state; or

216 (b) grant a tribunal of this state jurisdiction to render judgment or issue an order
217 relating to child custody or parent-time in a proceeding under this chapter.

218 Section 4. Section **78B-14-105** is enacted to read:

219 **78B-14-105. Application of chapter to residents of foreign countries and foreign**
220 **support proceedings.**

221 (1) A tribunal of this state shall apply Parts 1 through 6 and, as applicable, Part 7,
222 Support Proceedings under Convention, to a support proceeding involving:

223 (a) a foreign support order;

224 (b) a foreign tribunal; or

225 (c) an obligee, obligor, or child residing in a foreign country.

226 (2) A tribunal of this state that is requested to recognize and enforce a support order on
227 the basis of comity may apply the procedural and substantive provisions of Parts 1 through 6.

228 (3) Part 7, Support Proceedings under Convention, applies only to a support proceeding
229 under the convention. In a proceeding, if a provision of Part 7 is inconsistent with Parts 1
230 through 6, Part 7 controls.

231 Section 5. Section **78B-14-201** is amended to read:

232 **78B-14-201. Bases for jurisdiction over nonresident.**

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

236 (a) the individual is personally served with notice within this state;

237 (b) the individual submits to the jurisdiction of this state by consent, by entering a
238 general appearance, or by filing a responsive document having the effect of waiving any contest
239 to personal jurisdiction;

240 (c) the individual resided with the child in this state;

241 (d) the individual resided in this state and provided prenatal expenses or support for the
242 child;

243 (e) the child resides in this state as a result of the acts or directives of the individual;

244 (f) the individual engaged in sexual intercourse in this state and the child may have

245 been conceived by that act of intercourse;

246 (g) the individual asserted parentage of a child in the putative father registry
247 maintained in this state by the state registrar of vital records in the Department of Health
248 pursuant to Title 78B, Chapter 6, Part 1, Utah Adoption Act; or

249 (h) there is any other basis consistent with the constitutions of this state and the United
250 States for the exercise of personal jurisdiction.

251 (2) The bases of personal jurisdiction set forth in Subsection (1) or in any other law of
252 this state may not be used to acquire personal jurisdiction for a tribunal of [~~the~~] this state to
253 modify a child support order of another state unless the requirements of Section 78B-14-611
254 [~~or 78B-14-615~~] are met, or, in the case of a foreign support order, unless the requirements of
255 Section 78B-14-615 are met.

256 Section 6. Section **78B-14-203** is amended to read:

257 **78B-14-203. Initiating and responding tribunal of state.**

258 Under this chapter, a tribunal of this state may serve as an initiating tribunal to forward
259 proceedings to a tribunal of another state and as a responding tribunal for proceedings initiated
260 in another state or a foreign country.

261 Section 7. Section **78B-14-204** is amended to read:

262 **78B-14-204. Simultaneous proceedings in another state.**

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

266 (a) if the petition in this state is filed before the expiration of the time allowed in the
267 other state or the foreign country for filing a responsive pleading challenging the exercise of
268 jurisdiction by the other state or the foreign country;

269 (b) if the contesting party timely challenges the exercise of jurisdiction in the other
270 state or the foreign country; and

271 (c) if relevant, this state is the home state of the child.

272 (2) A tribunal of this state may not exercise jurisdiction to establish a support order if
273 the petition is filed before a petition or comparable pleading is filed in another state or a foreign
274 country:

275 (a) if the petition or comparable pleading in the other state is filed before the expiration

276 of the time allowed in this state or foreign country for filing a responsive pleading challenging
277 the exercise of jurisdiction by this state;

278 (b) if the contesting party timely challenges the exercise of jurisdiction in this state;
279 and

280 (c) if relevant, the other state or foreign country is the home [state] of the child.

281 Section 8. Section **78B-14-206** is amended to read:

282 **78B-14-206. Enforcement and modification of support order by tribunal having**
283 **continuing jurisdiction.**

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

286 (a) the order if the order is the controlling order and has not been modified by a
287 tribunal of another state that assumed jurisdiction pursuant to the Uniform Interstate Family
288 Support Act; or

289 (b) a money judgment for arrears of support and interest on the order accrued before a
290 determination that an order of a tribunal of another state is the controlling order.

291 (2) A tribunal of this state having continuing jurisdiction over a support order may act
292 as a responding tribunal to enforce the order.

293 Section 9. Section **78B-14-207** is amended to read:

294 **78B-14-207. Recognition of controlling child support order.**

295 (1) If a proceeding is brought under this chapter and only one tribunal has issued a
296 child support order, the order of that tribunal controls and [~~must~~] shall be so recognized.

297 (2) If a proceeding is brought under this chapter, and two or more child support orders
298 have been issued by tribunals of this state [~~or another state~~], another state, or a foreign country
299 with regard to the same obligor and same child, a tribunal of this state having personal
300 jurisdiction over both the obligor and individual obligee shall apply the following rules and by
301 order shall determine which order controls and shall be recognized:

302 (a) If only one of the tribunals would have continuing, exclusive jurisdiction under this
303 chapter, the order of that tribunal controls [~~and must be so recognized~~].

304 (b) If more than one of the tribunals would have continuing, exclusive jurisdiction
305 under this chapter, an order issued by a tribunal in the current home state of the child controls,
306 [~~but~~] or if an order has not been issued in the current home state of the child, the order most

307 recently issued controls.

308 (c) If none of the tribunals would have continuing, exclusive jurisdiction under this
309 chapter, the tribunal of this state shall issue a child support order, which controls.

310 (3) If two or more child support orders have been issued for the same obligor and same
311 child, upon request of a party who is an individual or that is a support enforcement agency, a
312 tribunal of this state having personal jurisdiction over both the obligor and the obligee who is
313 an individual shall determine which order controls under Subsection (2). The request may be
314 filed with a registration for enforcement or registration for modification pursuant to Part 6,
315 Registration, Enforcement, and Modification of Support Order, or may be filed as a separate
316 proceeding.

317 (4) A request to determine which is the controlling order [~~must~~] shall be accompanied
318 by a copy of every child support order in effect and the applicable record of payments. The
319 requesting party shall give notice of the request to each party whose rights may be affected by
320 the determination.

321 (5) The tribunal that issued the controlling order under Subsection (1), (2), or (3) has
322 continuing jurisdiction to the extent provided in Section 78B-14-205 or 78B-14-206.

323 (6) A tribunal of this state that determines by order which is the controlling order under
324 Subsection (2)(a), (b) or, (3) that issues a new controlling order under Subsection (2)(c), shall
325 state in that order:

326 (a) the basis upon which the tribunal made its determination;

327 (b) the amount of prospective support, if any; and

328 (c) the total amount of consolidated arrears and accrued interest, if any, under all of the
329 orders after all payments made are credited as provided by Section 78B-14-209.

330 (7) Within 30 days after issuance of an order determining which is the controlling
331 order, the party obtaining the order shall file a certified copy of it in each tribunal that issued or
332 registered an earlier order of child support. A party or support enforcement agency obtaining
333 the order that fails to file a certified copy is subject to appropriate sanctions by a tribunal in
334 which the issue of failure to file arises. The failure to file does not affect the validity or
335 enforceability of the controlling order.

336 (8) An order that has been determined to be the controlling order, or a judgment for
337 consolidated arrears of support and interest, if any, made pursuant to this section [~~must~~] shall

338 be recognized in proceedings under this chapter.

339 Section 10. Section **78B-14-208** is amended to read:

340 **78B-14-208. Child support orders for two or more obligees.**

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

346 Section 11. Section **78B-14-209** is amended to read:

347 **78B-14-209. Credit for payments.**

348 A tribunal of this state shall credit amounts collected for a particular period pursuant to
349 any child support order against the amounts owed for the same period under any other child
350 support order for support of the same child issued by a tribunal of this or another state or
351 foreign country.

352 Section 12. Section **78B-14-210** is amended to read:

353 **78B-14-210. Application to nonresident subject to personal jurisdiction.**

354 A tribunal of this state exercising personal jurisdiction over a nonresident in a
355 proceeding under this chapter, under other law of this state relating to a support order, or
356 recognizing a foreign support order [~~of a foreign country or political subdivision on the basis of~~
357 ~~comity~~] may receive evidence from [~~another~~] outside this state pursuant to Section
358 78B-14-316, communicate with a tribunal [~~of another~~] outside this state pursuant to Section
359 78B-14-317, and obtain discovery through a tribunal [~~of another~~] outside this state pursuant to
360 Section 78B-14-318. In all other respects, Parts 3 through [7] 6 do not apply and the tribunal
361 shall apply the procedural and substantive law of this state.

362 Section 13. Section **78B-14-211** is amended to read:

363 **78B-14-211. Continuing, exclusive jurisdiction to modify spousal support order.**

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

367 (2) A tribunal of this state may not modify a spousal support order issued by a tribunal
368 of another state or foreign country having continuing, exclusive jurisdiction over that order

369 under the law of that state or foreign country.

370 (3) A tribunal of this state that has continuing, exclusive jurisdiction over a spousal
371 support order may serve as:

372 (a) an initiating tribunal to request a tribunal of another state to enforce the spousal
373 support order issued in this state; or

374 (b) a responding tribunal to enforce or modify its own spousal support order.

375 Section 14. Section **78B-14-301** is amended to read:

376 **78B-14-301. Proceedings under chapter.**

377 (1) Except as otherwise provided in this chapter, this part applies to all proceedings
378 under this chapter.

379 (2) An individual petitioner or a support enforcement agency may initiate a proceeding
380 authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a
381 responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of
382 another state or a foreign country which has or can obtain personal jurisdiction over the
383 respondent.

384 Section 15. Section **78B-14-304** is amended to read:

385 **78B-14-304. Duties of initiating tribunal.**

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

388 (a) to the responding tribunal or appropriate support enforcement agency in the
389 responding state; or

390 (b) if the identity of the responding tribunal is unknown, to the state information
391 agency of the responding state with a request that they be forwarded to the appropriate tribunal
392 and that receipt be acknowledged.

393 (2) If requested by the responding tribunal, a tribunal of this state shall issue a
394 certificate or other document and make findings required by the law of the responding state. If
395 the responding ~~[state] tribunal~~ is in a foreign country ~~[or political subdivision]~~, upon request,
396 the tribunal of this state shall specify the amount of support sought, convert that amount into
397 the equivalent amount in the foreign currency under applicable official or market exchange rate
398 as publicly reported, and provide any other documents necessary to satisfy the requirements of
399 the responding ~~[state] foreign tribunal~~.

400 Section 16. Section **78B-14-305** is amended to read:

401 **78B-14-305. Duties and powers of responding tribunal.**

402 (1) When a responding tribunal of this state receives a petition or comparable pleading
403 from an initiating tribunal or directly pursuant to Subsection 78B-14-301(2), it shall cause the
404 petition or pleading to be filed and notify the petitioner where and when it was filed.

405 (2) A responding tribunal of this state, to the extent not prohibited by other law, may
406 do one or more of the following:

407 (a) [~~issue~~] establish or enforce a support order, modify a child support order, determine
408 the controlling child support order, or determine parentage of a child;

409 (b) order an obligor to comply with a support order, specifying the amount and the
410 manner of compliance;

411 (c) order income withholding;

412 (d) determine the amount of any arrearages and specify a method of payment;

413 (e) enforce orders by civil or criminal contempt, or both;

414 (f) set aside property for satisfaction of the support order;

415 (g) place liens and order execution on the obligor's property;

416 (h) order an obligor to keep the tribunal informed of the obligor's current residential
417 address, electronic-mail address, telephone number, employer, address of employment, and
418 telephone number at the place of employment;

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

422 (j) order the obligor to seek appropriate employment by specified methods;

423 (k) award reasonable attorney fees and other fees and costs; and

424 (l) grant any other available remedy.

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

428 (4) A responding tribunal of this state may not condition the payment of a support
429 order issued under this chapter upon compliance by a party with provisions for parent-time.

430 (5) If a responding tribunal of this state issues an order under this chapter, the tribunal

431 shall send a copy of the order to the petitioner and the respondent and to the initiating tribunal,
432 if any.

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

437 Section 17. Section **78B-14-307** is amended to read:

438 **78B-14-307. Duties of support enforcement agency.**

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

441 (2) A support enforcement agency of this state that is providing services to the
442 petitioner shall:

443 (a) take all steps necessary to enable an appropriate tribunal ~~[in]~~ of this state ~~[or~~
444 ~~another state]~~, another state, or a foreign country to obtain jurisdiction over the respondent;

445 (b) request an appropriate tribunal to set a date, time, and place for a hearing;

446 (c) make a reasonable effort to obtain all relevant information, including information as
447 to income and property of the parties;

448 (d) within 10 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of
449 a written notice in a record from an initiating, responding, or registering tribunal, send a copy
450 of the notice to the petitioner;

451 (e) within 10 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of
452 a written communication in a record from the respondent or the respondent's attorney, send a
453 copy of the communication to the petitioner; and

454 (f) notify the petitioner if jurisdiction over the respondent cannot be obtained.

455 (3) A support enforcement agency of this state that requests registration of a child
456 support order in this state for enforcement or for modification shall make reasonable efforts:

457 (a) to ensure that the order to be registered is the controlling order; or

458 (b) if two or more child support orders exist and the identity of the controlling order
459 has not been determined, to ensure that a request for such a determination is made in a tribunal
460 having jurisdiction to do so.

461 (4) A support enforcement agency of this state that requests registration and

462 enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert
463 the amounts stated in the foreign currency into the equivalent amounts in dollars under the
464 applicable official or market exchange rate as publicly reported.

465 (5) A support enforcement agency of this state shall issue or request a tribunal of this
466 state to issue a child support order and an income-withholding order that redirects payment of
467 current support, arrears, and interest if requested to do so by a support enforcement agency of
468 another state pursuant to Section 78B-14-319.

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

472 Section 18. Section **78B-14-308** is amended to read:

473 **78B-14-308. Duty of attorney general.**

474 (1) If the attorney general determines that the support enforcement agency is neglecting
475 or refusing to provide services to an individual, the attorney general may order the agency to
476 perform its duties under this chapter or may provide those services directly to the individual.

477 (2) The attorney general may determine that a foreign country [~~or political subdivision~~]
478 has established a reciprocal arrangement for child support with this state and take appropriate
479 action for notification of the determination.

480 Section 19. Section **78B-14-310** is amended to read:

481 **78B-14-310. Duties of state information agency.**

482 (1) The Office of Recovery Services is the state information agency under this chapter.

483 (2) The state information agency shall:

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

487 (b) maintain a register of names and addresses of tribunals and support enforcement
488 agencies received from other states;

489 (c) forward to the appropriate tribunal in the county in this state in which the obligee
490 who is an individual or the obligor resides, or in which the obligor's property is believed to be
491 located, all documents concerning a proceeding under this chapter received from [~~an initiating~~
492 ~~tribunal or the state information agency of the initiating state~~] another state or a foreign

493 country; and

494 (d) obtain information concerning the location of the obligor and the obligor's property
495 within this state not exempt from execution, by such means as postal verification and federal or
496 state locator services, examination of telephone directories, requests for the obligor's address
497 from employers, and examination of governmental records, including, to the extent not
498 prohibited by law, those relating to real property, vital records, law enforcement, taxation,
499 motor vehicles, driver's licenses, and Social Security number.

500 Section 20. Section **78B-14-311** is amended to read:

501 **78B-14-311. Pleadings and accompanying documents.**

502 (1) In a proceeding under this chapter, a petitioner seeking to establish a support order,
503 to determine parentage of a child, or to register and modify a support order of a tribunal of
504 another state [~~must~~] or a foreign country shall file a petition. Unless otherwise ordered under
505 Section 78B-14-312, the petition or accompanying documents [~~must~~] shall provide, so far as
506 known, the name, residential address, and Social Security numbers of the obligor and the
507 obligee or the parent and alleged parent, and the name, sex, residential address, Social Security
508 number, and date of birth of each child for whose benefit support is sought or whose parentage
509 is to be determined. Unless filed at the time of registration, the petition [~~must~~] shall be
510 accompanied by a copy of any support order known to have been issued by another tribunal.
511 The petition may include any other information that may assist in locating or identifying the
512 respondent.

513 (2) The petition [~~must~~] shall specify the relief sought. The petition and accompanying
514 documents [~~must~~] shall conform substantially with the requirements imposed by the forms
515 mandated by federal law for use in cases filed by a support enforcement agency.

516 Section 21. Section **78B-14-313** is amended to read:

517 **78B-14-313. Costs and fees.**

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

519 (2) If an obligee prevails, a responding tribunal of this state may assess against an
520 obligor filing fees, reasonable attorney fees, other costs, and necessary travel and other
521 reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not
522 assess fees, costs, or expenses against the obligee or the support enforcement agency of either
523 the initiating or the responding state or a foreign country, except as provided by law. Attorney

524 fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce
525 the order in the attorney's own name. Payment of support owed to the obligee has priority over
526 fees, costs, and expenses.

527 (3) The tribunal shall order the payment of costs and reasonable attorney fees if it
528 determines that a hearing was requested primarily for delay. In a proceeding under Part 6,
529 Registration, Enforcement, and Modification of Support Order, a hearing is presumed to have
530 been requested primarily for delay if a registered support order is confirmed or enforced
531 without change.

532 Section 22. Section **78B-14-316** is amended to read:

533 **78B-14-316. Special rules of evidence and procedure.**

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

537 (2) An affidavit, a document substantially complying with federally mandated forms,
538 or a document incorporated by reference in any of them, which would not be excluded under
539 the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury
540 by a party or witness residing [~~in another~~] outside this state.

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

544 (4) Copies of bills for testing for parentage of a child, and for prenatal and postnatal
545 health care of the mother and child, furnished to the adverse party at least 10 days before trial,
546 are admissible in evidence to prove the amount of the charges billed and that the charges were
547 reasonable, necessary, and customary.

548 (5) Documentary evidence transmitted from [~~another~~] outside this state to a tribunal of
549 this state by telephone, telecopier, or other electronic means that do not provide an original
550 record may not be excluded from evidence on an objection based on the means of transmission.

551 (6) In a proceeding under this chapter, a tribunal of this state shall permit a party or
552 witness residing [~~in another~~] outside this state to be deposed or to testify by telephone,
553 audiovisual means, or other electronic means at a designated tribunal or other location [~~in that~~
554 state]. A tribunal of this state shall cooperate with tribunals of other states in designating an

555 appropriate location for the deposition or testimony.

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

559 (8) A privilege against disclosure of communications between spouses does not apply
560 in a proceeding under this chapter.

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

563 (10) A voluntary acknowledgment of paternity, certified as a true copy, is admissible to
564 establish parentage of the child.

565 Section 23. Section **78B-14-317** is amended to read:

566 **78B-14-317. Communications between tribunals.**

567 A tribunal of this state may communicate with a tribunal [~~of another~~] outside this state
568 [~~or foreign country or political subdivision~~] in a record, or by telephone, electronic mail, or
569 other means, to obtain information concerning the laws, the legal effect of a judgment, decree,
570 or order of that tribunal, and the status of a proceeding [~~in the other state or a foreign country or~~
571 ~~political subdivision~~]. A tribunal of this state may furnish similar information by similar
572 means to a tribunal [~~of another~~] outside this state or foreign country or political subdivision.

573 Section 24. Section **78B-14-318** is amended to read:

574 **78B-14-318. Assistance with discovery.**

575 A tribunal of this state may:

576 (1) request a tribunal [~~of another~~] outside this state to assist in obtaining discovery; and

577 (2) upon request, compel a person over whom it has jurisdiction to respond to a
578 discovery order issued by a tribunal [~~of another~~] outside this state.

579 Section 25. Section **78B-14-319** is amended to read:

580 **78B-14-319. Receipt and disbursement of payments.**

581 (1) A support enforcement agency or tribunal of this state shall disburse promptly any
582 amounts received pursuant to a support order, as directed by the order. The agency or tribunal
583 shall furnish to a requesting party or tribunal of another state or a foreign country a certified
584 statement by the custodian of the record of the amounts and dates of all payments received.

585 (2) If neither the obligor, nor the obligee who is an individual, nor the child resides in

586 this state, upon request from the support enforcement agency of this state or another state, the
587 Office of Recovery Services or a tribunal of this state shall:

588 (a) direct that the support payment be made to the support enforcement agency in the
589 state in which the obligee is receiving services; and

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

592 (3) The support enforcement agency of this state receiving redirected payments from
593 another state pursuant to a law similar to Subsection (2) shall furnish to a requesting party or
594 tribunal of the other state a certified statement by the custodian of the record of the amount and
595 dates of all payments received.

596 Section 26. Section **78B-14-401** is amended to read:

597 **Part 4. Establishment of Support Order or Determination of Parentage**

598 **78B-14-401. Establishment of support order.**

599 (1) If a support order entitled to recognition under this chapter has not been issued, a
600 responding tribunal of this state with personal jurisdiction over the parties may issue a support
601 order if:

602 (a) the individual seeking the order resides [~~in another~~] outside this state; or

603 (b) the support enforcement agency seeking the order is located [~~in another~~] outside
604 this state.

605 (2) The tribunal may issue a temporary child support order if the tribunal determines
606 that an order is appropriate and the individual ordered to pay is:

607 (a) a presumed father of the child;

608 (b) petitioning to have his paternity adjudicated;

609 (c) identified as the father of the child through genetic testing;

610 (d) an alleged father who has declined to submit to genetic testing;

611 (e) shown by clear and convincing evidence to be the father of the child;

612 (f) an acknowledged father determined in accordance with Title 78B, Chapter 15, Part
613 3, Voluntary Declaration of Paternity Act;

614 (g) the mother of the child; or

615 (h) an individual who has been ordered to pay child support in a previous proceeding
616 and the order has not been reversed or vacated.

617 (3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty
618 of support, the tribunal shall issue a support order directed to the obligor and may issue other
619 orders pursuant to Section 78B-14-305.

620 Section 27. Section **78B-14-402**, which is renumbered from Section 78B-14-701 is
621 renumbered and amended to read:

622 ~~[78B-14-701].~~ **78B-14-402. Proceeding to determine parentage.**

623 A tribunal of this state authorized to determine parentage of a child may serve as a
624 responding tribunal in a proceeding to determine parentage brought under this chapter or a law
625 or procedure substantially similar to this chapter.

626 Section 28. Section **78B-14-504** is amended to read:

627 **Part 5. Enforcement of Support Order Without Registration**

628 **78B-14-504. Immunity from civil liability.**

629 An employer ~~[who]~~ that complies with an income withholding order issued in another
630 state in accordance with this part is not subject to civil liability to an individual or agency with
631 regard to the employer's withholding of child support from the obligor's income.

632 Section 29. Section **78B-14-505** is amended to read:

633 **78B-14-505. Penalties for noncompliance.**

634 An employer ~~[who]~~ that willfully fails to comply with an income withholding order
635 issued ~~[by]~~ in another state and received for enforcement is subject to the same penalties that
636 may be imposed for noncompliance with an order issued by a tribunal of this state.

637 Section 30. Section **78B-14-507** is amended to read:

638 **78B-14-507. Administrative enforcement of orders.**

639 (1) A party or support enforcement agency seeking to enforce a support order or an
640 income-withholding order, or both, issued ~~[by a tribunal of]~~ in another state or a foreign
641 country may send the documents required for registering the order to a support enforcement
642 agency of this state.

643 (2) Upon receipt of the documents, the support enforcement agency, without initially
644 seeking to register the order, shall consider and, if appropriate, use any administrative
645 procedure authorized by the law of this state to enforce a support order or an
646 income-withholding order, or both. If the obligor does not contest administrative enforcement,
647 the order need not be registered. If the obligor contests the validity or administrative

648 enforcement of the order, the support enforcement agency shall register the order pursuant to
649 this chapter.

650 Section 31. Section **78B-14-601** is amended to read:

651 **78B-14-601. Registration of order for enforcement.**

652 A support order or income-withholding order issued [~~by a tribunal of~~] in another state
653 or foreign country may be registered in this state for enforcement.

654 Section 32. Section **78B-14-602** is amended to read:

655 **78B-14-602. Procedure to register order for enforcement.**

656 (1) [~~A~~] Except as otherwise provided in Section 78B-14-706, a support order or
657 income-withholding order of another state or foreign country may be registered in this state by
658 sending the following records [~~and information~~] to the appropriate tribunal in this state:

659 (a) a letter of transmittal to the tribunal requesting registration and enforcement;

660 (b) two copies, including one certified copy, of the order to be registered, including any
661 modification of the order;

662 (c) a sworn statement by the person requesting registration or a certified statement by
663 the custodian of the records showing the amount of any arrearage;

664 (d) the name of the obligor and, if known:

665 (i) the obligor's address and Social Security number;

666 (ii) the name and address of the obligor's employer and any other source of income of
667 the obligor; and

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

670 (e) except as otherwise provided in Section 78B-14-312, the name and address of the
671 obligee and, if applicable, the person to whom support payments are to be remitted.

672 (2) On receipt of a request for registration, the registering tribunal shall cause the order
673 to be filed as [~~a foreign judgment~~] an order of a tribunal of another state or a foreign country,
674 together with one copy of the documents and information, regardless of their form.

675 (3) A petition seeking a remedy that [~~must~~] shall be affirmatively sought under law of
676 this state may be filed at the same time as the request for registration or later. The pleading
677 [~~must~~] shall specify the grounds for the remedy sought.

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

679 (a) furnish to the tribunal a copy of every support order asserted to be in effect in
680 addition to the documents specified in this section;

681 (b) specify the order alleged to be the controlling order, if any; and

682 (c) specify the amount of consolidated arrears, if any.

683 (5) A request for a determination of which is the controlling order may be filed
684 separately or with a request for registration and enforcement or for registration and
685 modification. The person requesting registration shall give notice of the request to each party
686 whose rights may be affected by the determination.

687 Section 33. Section **78B-14-603** is amended to read:

688 **78B-14-603. Effect of registration for enforcement.**

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

691 (2) A registered support order issued in another state or a foreign country is enforceable
692 in the same manner and is subject to the same procedures as an order issued by a tribunal of
693 this state.

694 (3) Except as otherwise provided in this [~~part~~] chapter, a tribunal of this state shall
695 recognize and enforce, but may not modify, a registered support order if the issuing tribunal
696 had jurisdiction.

697 Section 34. Section **78B-14-604** is amended to read:

698 **78B-14-604. Choice of law.**

699 (1) Except as otherwise provided in Subsection (4), the law of the issuing state or
700 foreign country governs:

701 (a) the nature, extent, amount, and duration of current payments under a registered
702 support order;

703 (b) the computation and payment of arrearages and accrual of interest on the arrearages
704 under the support order; and

705 (c) the existence and satisfaction of other obligations under the support order.

706 (2) In a proceeding for arrears under a registered support order, the statute of limitation
707 of this state or of the issuing state or foreign country, whichever is longer, applies.

708 (3) A responding tribunal of this state shall apply the procedures and remedies of this
709 state to enforce current support and collect arrears and interest due on a support order of

710 another state or a foreign country registered in this state.

711 (4) After a tribunal of this or another state determines which is the controlling order
712 and issues an order consolidating arrears, if any, a tribunal of this state shall prospectively
713 apply the law of the state or foreign country issuing the controlling order, including its law on
714 interest on arrears, on current and future support, and on consolidated arrears.

715 Section 35. Section **78B-14-605** is amended to read:

716 **78B-14-605. Notice of registration of order.**

717 (1) When a support order or income-withholding order issued in another state or a
718 foreign country is registered, the registering tribunal of this state shall notify the nonregistering
719 party. The notice [~~must~~] shall be accompanied by a copy of the registered order and the
720 documents and relevant information accompanying the order.

721 (2) A notice [~~must~~] shall inform the nonregistering party:

722 (a) that a registered order is enforceable as of the date of registration in the same
723 manner as an order issued by a tribunal of this state;

724 (b) that a hearing to contest the validity or enforcement of the registered order [~~must~~]
725 shall be requested within 20 days after the date of mailing or personal service of the notice,
726 unless the registered order is under Section 78B-14-707;

727 (c) that failure to contest the validity or enforcement of the registered order in a timely
728 manner will result in confirmation of the order and enforcement of the order and the alleged
729 arrearages and precludes further contest of that order with respect to any matter that could have
730 been asserted; and

731 (d) of the amount of any alleged arrearages.

732 (3) If the registering party asserts that two or more orders are in effect, a notice [~~must~~]
733 shall also:

734 (a) identify the two or more orders and the order alleged by the registering [~~person~~]
735 party to be the controlling order and the consolidated arrears, if any;

736 (b) notify the nonregistering party of the right to a determination of which is the
737 controlling order;

738 (c) state that the procedures provided in Subsection (2) apply to the determination of
739 which is the controlling order; and

740 (d) state that failure to contest the validity or enforcement of the order alleged to be the

741 controlling order in a timely manner may result in confirmation that the order is the controlling
742 order.

743 (4) Upon registration of an income-withholding order for enforcement, the support
744 enforcement agency or the registering tribunal shall notify the obligor's employer pursuant to
745 Title 62A, Chapter 11, Part 4, Income Withholding in IV-D Cases.

746 Section 36. Section **78B-14-606** is amended to read:

747 **78B-14-606. Procedure to contest validity or enforcement of registered support**
748 **order.**

749 (1) A nonregistering party seeking to contest the validity or enforcement of a registered
750 order in this state shall request a hearing within [~~20 days after notice of the registration~~] the
751 time required by Section 78B-14-605. The nonregistering party may seek to vacate the
752 registration, to assert any defense to an allegation of noncompliance with the registered order,
753 or to contest the remedies being sought or the amount of any alleged arrearages pursuant to
754 Section 78B-14-607.

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

757 (3) If a nonregistering party requests a hearing to contest the validity or enforcement of
758 the registered order, the registering tribunal shall schedule the matter for hearing and give
759 notice to the parties of the date, time, and place of the hearing.

760 Section 37. Section **78B-14-607** is amended to read:

761 **78B-14-607. Contest of registration or enforcement.**

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

- 765 (a) the issuing tribunal lacked personal jurisdiction over the contesting party;
766 (b) the order was obtained by fraud;
767 (c) the order has been vacated, suspended, or modified by a later order;
768 (d) the issuing tribunal has stayed the order pending appeal;
769 (e) there is a defense under the law of this state to the remedy sought;
770 (f) full or partial payment has been made;
771 (g) the statute of limitation under Section 78B-14-604 precludes enforcement of some

772 or all of the alleged arrearages; or

773 (h) the alleged controlling order is not the controlling order.

774 (2) If a party presents evidence establishing a full or partial defense under Subsection

775 (1), a tribunal may stay enforcement of [~~the~~] a registered support order, continue the

776 proceeding to permit production of additional relevant evidence, and issue other appropriate

777 orders. An uncontested portion of the registered support order may be enforced by all remedies

778 available under the law of this state.

779 (3) If the contesting party does not establish a defense under Subsection (1) to the

780 validity or enforcement of [~~the~~] a registered support order, the registering tribunal shall issue an

781 order confirming the order.

782 Section 38. Section **78B-14-608** is amended to read:

783 **78B-14-608. Confirmed order.**

784 Confirmation of a registered support order, whether by operation of law or after notice

785 and hearing, precludes further contest of the order with respect to any matter that could have

786 been asserted at the time of registration.

787 Section 39. Section **78B-14-609** is amended to read:

788 **78B-14-609. Procedure to register child support order of another state for**
789 **modification.**

790 A party or support enforcement agency seeking to modify, or to modify and enforce, a

791 child support order issued in another state shall register that order in this state in the same

792 manner provided in Sections 78B-14-601[, ~~78B-14-602, 78B-14-603, and 78B-14-604~~] through

793 78B-14-608 if the order has not been registered. A petition for modification may be filed at the

794 same time as a request for registration, or later. The pleading [~~must~~] shall specify the grounds

795 for modification.

796 Section 40. Section **78B-14-610** is amended to read:

797 **78B-14-610. Effect of registration for modification.**

798 A tribunal of this state may enforce a child support order of another state registered for

799 purposes of modification, in the same manner as if the order had been issued by a tribunal of

800 this state, but the registered support order may be modified only if the requirements of Section

801 78B-14-611[;] or 78B-14-613[, ~~or 78B-14-615~~] have been met.

802 Section 41. Section **78B-14-611** is amended to read:

803 **78B-14-611. Modification of child support order of another state.**

804 (1) If Section 78B-14-613 does not apply, ~~[except as otherwise provided in Section~~
805 ~~78B-14-615,]~~ upon petition a tribunal of this state may modify a child support order issued in
806 another state which is registered in this state if, after notice and hearing, the tribunal finds that:

807 (a) the following requirements are met:

808 (i) neither the child, nor the obligee who is an individual, nor the obligor resides in the
809 issuing state;

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

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

812 (b) this state is the ~~[state of]~~ residence of the child, or a party who is an individual, is
813 subject to the personal jurisdiction of the tribunal of this state and all of the parties who are
814 individuals have filed consents in a record in the issuing tribunal for a tribunal of this state to
815 modify the support order and assume continuing, exclusive jurisdiction.

816 (2) Modification of a registered child support order is subject to the same requirements,
817 procedures, and defenses that apply to the modification of an order issued by a tribunal of this
818 state and the order may be enforced and satisfied in the same manner.

819 (3) ~~[Except as otherwise provided in Section 78B-14-615, a]~~ A tribunal of this state
820 may not modify any aspect of a child support order that may not be modified under the law of
821 the issuing state, including the duration of the obligation of support. If two or more tribunals
822 have issued child support orders for the same obligor and same child, the order that controls
823 and ~~[must]~~ shall be so recognized under Section 78B-14-207 establishes the aspects of the
824 support order which are nonmodifiable.

825 (4) In a proceeding to modify a child support order, the law of the state that is
826 determined to have issued the initial controlling order governs the duration of the obligation of
827 support. The obligor's fulfillment of the duty of support established by that order precludes
828 imposition of a further obligation of support by a tribunal of this state.

829 (5) On issuance of an order by a tribunal of this state modifying a child support order
830 issued in another state, the tribunal of this state becomes the tribunal of continuing, exclusive
831 jurisdiction.

832 (6) Notwithstanding Subsections (1) through (5) and Subsection 78B-14-201(2), a
833 tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:

834 (a) one party resides in another state; and

835 (b) the other party resides outside the United States.

836 Section 42. Section **78B-14-615** is amended to read:

837 **78B-14-615. Jurisdiction to modify child support order of foreign country or**
838 **political subdivision.**

839 (1) [~~¶~~] Except as otherwise provided in Section 78B-14-711, if a foreign country [or
840 political subdivision that is a state will not or may not modify its order] lacks or refuses to
841 exercise jurisdiction to modify its child support order pursuant to its laws, a tribunal of this
842 state may assume jurisdiction to modify the child support order and bind all individuals subject
843 to the personal jurisdiction of the tribunal whether or not the consent to modification of a child
844 support order otherwise required of the individual pursuant to Section 78B-14-611 has been
845 given or whether the individual seeking modification is a resident of this state or of the foreign
846 country [or political subdivision].

847 (2) An order issued by a tribunal of this state modifying a foreign child support order
848 pursuant to this section is the controlling order.

849 Section 43. Section **78B-14-616** is enacted to read:

850 **78B-14-616. Procedure to register child support order of foreign country for**
851 **modification.**

852 A party or support enforcement agency seeking to modify, or to modify and enforce, a
853 foreign child support order not under the convention may register that order in this state under
854 Sections 78B-14-601 through 78B-14-608 if the order has not been registered. A petition for
855 modification may be filed at the same time as a request for registration, or at another time. The
856 petition shall specify the grounds for modification.

857 Section 44. Section **78B-14-701.5** is enacted to read:

858 **Part 7. Support Proceedings under Convention**

859 **78B-14-701.5. Definitions.**

860 As used in this part:

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

863 (2) "Central authority" means the entity designated by the United States or a foreign
864 country described in Subsection 78B-14-102(5)(d) to perform the functions specified in the

865 convention.

866 (3) "Convention support order" means a support order of a tribunal of a foreign country
867 described in Subsection 78B-14-102(5)(d).

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

870 (5) "Foreign central authority" means the entity designated by a foreign country
871 described in Subsection 78B-14-102(5)(d) to perform the functions specified in the convention.

872 (6) "Foreign support agreement":

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

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

875 (ii) has been:

876 (A) formally drawn up or registered as an authentic instrument by a foreign tribunal; or

877 (B) authenticated by, or concluded, registered, or filed with a foreign tribunal; and

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

879 (b) includes a maintenance arrangement or authentic instrument under the convention.

880 (7) "United States central authority" means the Secretary of the United States

881 Department of Health and Human Services.

882 Section 45. Section **78B-14-702** is enacted to read:

883 **78B-14-702. Applicability.**

884 This part applies only to a support proceeding under the convention. In such a
885 proceeding, if a provision of this part is inconsistent with Parts 1 through 6, this part controls.

886 Section 46. Section **78B-14-703** is enacted to read:

887 **78B-14-703. Relationship of Department of Human Services to United States**

888 **central authority.**

889 The Utah Department of Human Services is recognized as the agency designated by the
890 United States central authority to perform specific functions under the convention.

891 Section 47. Section **78B-14-704** is enacted to read:

892 **78B-14-704. Initiation by Department of Human Services of support proceeding**

893 **under convention.**

894 (1) In a support proceeding under this part, the Utah Department of Human Services
895 shall:

- 896 (a) transmit and receive applications; and
897 (b) initiate or facilitate the institution of a proceeding regarding an application in a
898 tribunal of this state.
- 899 (2) The following support proceedings are available to an obligee under the
900 convention:
- 901 (a) recognition or recognition and enforcement of a foreign support order;
902 (b) enforcement of a support order issued or recognized in this state;
903 (c) establishment of a support order if there is no existing order, including, if
904 necessary, determination of parentage of a child;
905 (d) establishment of a support order if recognition of a foreign support order is refused
906 under Subsection 78B-14-708(2)(b), (d), or (i);
907 (e) modification of a support order of a tribunal of this state; and
908 (f) modification of a support order of a tribunal of another state or a foreign country.
- 909 (3) The following support proceedings are available under the convention to an obligor
910 against which there is an existing support order:
- 911 (a) recognition of an order suspending or limiting enforcement of an existing support
912 order of a tribunal of this state;
913 (b) modification of a support order of a tribunal of this state; and
914 (c) modification of a support order of a tribunal of another state or a foreign country.
- 915 (4) A tribunal of this state may not require security, bond, or deposit, however
916 described, to guarantee the payment of costs and expenses in proceedings under the
917 convention.
- 918 Section 48. Section **78B-14-705** is enacted to read:
- 919 **78B-14-705. Direct request.**
- 920 (1) A petitioner may file a direct request seeking establishment or modification of a
921 support order or determination of parentage of a child. In the proceeding, the law of this state
922 applies.
- 923 (2) A petitioner may file a direct request seeking recognition and enforcement of a
924 support order or support agreement. In the proceeding, Sections 78B-14-706 through
925 78B-14-713 apply.
- 926 (3) In a direct request for recognition and enforcement of a convention support order or

927 foreign support agreement:

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

930 (b) an obligee or obligor that in the issuing country has benefitted from free legal
931 assistance is entitled to benefit, at least to the same extent, from any free legal assistance
932 provided for by the law of this state under the same circumstances.

933 (4) A petitioner filing a direct request is not entitled to assistance from the Department
934 of Human Services.

935 (5) This part does not prevent the application of laws of this state that provide
936 simplified, more expeditious rules regarding a direct request for recognition and enforcement
937 of a foreign support order or foreign support agreement.

938 Section 49. Section **78B-14-706** is enacted to read:

939 **78B-14-706. Registration of convention support order.**

940 (1) Except as otherwise provided in this part, a party who is an individual or a support
941 enforcement agency seeking recognition of a convention support order shall register the order
942 in this state as provided in Part 6, Registration, Enforcement, and Modification of Support
943 Order.

944 (2) Notwithstanding Section 78B-14-311 and Subsection 78B-14-602(1), a request for
945 registration of a convention support order shall be accompanied by:

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

949 (b) a record stating that the support order is enforceable in the issuing country;

950 (c) if the respondent did not appear and was not represented in the proceedings in the
951 issuing country, a record attesting, as appropriate, either that the respondent had proper notice
952 of the proceedings and an opportunity to be heard or that the respondent had proper notice of
953 the support order and an opportunity to be heard in a challenge or appeal on fact or law before a
954 tribunal;

955 (d) a record showing the amount of arrears, if any, and the date the amount was
956 calculated;

957 (e) a record showing a requirement for automatic adjustment of the amount of support,

958 if any, and the information necessary to make the appropriate calculations; and

959 (f) if necessary, a record showing the extent to which the applicant received free legal
960 assistance in the issuing country.

961 (3) A request for registration of a convention support order may seek recognition and
962 partial enforcement of the order.

963 (4) A tribunal of this state may vacate the registration of a convention support order
964 without the filing of a contest under Section 78B-14-707 only if, acting on its own motion, the
965 tribunal finds that recognition and enforcement of the order would be manifestly incompatible
966 with public policy.

967 (5) The tribunal shall promptly notify the parties of the registration or the order
968 vacating the registration of a convention support order.

969 Section 50. Section **78B-14-707** is enacted to read:

970 **78B-14-707. Contest of registered convention support order.**

971 (1) Except as otherwise provided in this part, Sections 78B-14-605 through
972 78B-14-608 apply to a contest of a registered convention support order.

973 (2) A party contesting a registered convention support order shall file a contest not later
974 than 30 days after notice of the registration, but if the contesting party does not reside in the
975 United States, the contest shall be filed not later than 60 days after notice of the registration.

976 (3) If the nonregistering party fails to contest the registered convention support order
977 by the time specified in Subsection (2), the order is enforceable.

978 (4) A contest of a registered convention support order may be based only on grounds
979 set forth in Section 78B-14-708. The contesting party bears the burden of proof.

980 (5) In a contest of a registered convention support order, a tribunal of this state:

981 (a) is bound by the findings of fact on which the foreign tribunal based its jurisdiction;
982 and

983 (b) may not review the merits of the order.

984 (6) A tribunal of this state deciding a contest of a registered convention support order
985 shall promptly notify the parties of its decision.

986 (7) A challenge or appeal, if any, does not stay the enforcement of a convention
987 support order unless there are exceptional circumstances.

988 Section 51. Section **78B-14-708** is enacted to read:

989 **78B-14-708. Recognition and enforcement of registered convention support order.**

990 (1) Except as otherwise provided in Subsection (2), a tribunal of this state shall
991 recognize and enforce a registered convention support order.

992 (2) The following grounds are the only grounds on which a tribunal of this state may
993 refuse recognition and enforcement of a registered convention support order:

994 (a) recognition and enforcement of the order is manifestly incompatible with public
995 policy, including the failure of the issuing tribunal to observe minimum standards of due
996 process, which include notice and an opportunity to be heard;

997 (b) the issuing tribunal lacked personal jurisdiction consistent with Section
998 78B-14-201;

999 (c) the order is not enforceable in the issuing country;

1000 (d) the order was obtained by fraud in connection with a matter of procedure;

1001 (e) a record transmitted in accordance with Section 78B-14-706 lacks authenticity or
1002 integrity;

1003 (f) a proceeding between the same parties and having the same purpose is pending
1004 before a tribunal of this state and that proceeding was the first to be filed;

1005 (g) the order is incompatible with a more recent support order involving the same
1006 parties and having the same purpose if the more recent support order is entitled to recognition
1007 and enforcement under this chapter in this state;

1008 (h) payment, to the extent alleged arrears have been paid in whole or in part;

1009 (i) in a case in which the respondent neither appeared nor was represented in the
1010 proceeding in the issuing foreign country:

1011 (i) if the law of that country provides for prior notice of proceedings, the respondent
1012 did not have proper notice of the proceedings and an opportunity to be heard; or

1013 (ii) if the law of that country does not provide for prior notice of the proceedings, the
1014 respondent did not have proper notice of the order and an opportunity to be heard in a
1015 challenge or appeal on fact or law before a tribunal; or

1016 (j) the order was made in violation of Section 78B-14-711.

1017 (3) If a tribunal of this state does not recognize a convention support order under
1018 Subsection (2)(b), (d), (f), or (i):

1019 (a) the tribunal may not dismiss the proceeding without allowing a reasonable time for

1020 a party to request the establishment of a new convention support order; and

1021 (b) the Department of Human Services shall take all appropriate measures to request a
1022 child support order for the obligee if the application for recognition and enforcement was
1023 received under Section 78B-14-704.

1024 Section 52. Section **78B-14-709** is enacted to read:

1025 **78B-14-709. Partial enforcement.**

1026 If a tribunal of this state does not recognize and enforce a convention support order in
1027 its entirety, it shall enforce any severable part of the order. An application or direct request
1028 may seek recognition and partial enforcement of a convention support order.

1029 Section 53. Section **78B-14-710** is enacted to read:

1030 **78B-14-710. Foreign support agreement.**

1031 (1) Except as otherwise provided in Subsections (3) and (4), a tribunal of this state
1032 shall recognize and enforce a foreign support agreement registered in this state.

1033 (2) An application or direct request for recognition and enforcement of a foreign
1034 support agreement shall be accompanied by:

1035 (a) a complete text of the foreign support agreement; and

1036 (b) a record stating that the foreign support agreement is enforceable as an order of
1037 support in the issuing country.

1038 (3) A tribunal of this state may vacate the registration of a foreign support agreement
1039 only if, acting on its own motion, the tribunal finds that recognition and enforcement would be
1040 manifestly incompatible with public policy.

1041 (4) In a contest of a foreign support agreement, a tribunal of this state may refuse
1042 recognition and enforcement of the agreement if it finds:

1043 (a) recognition and enforcement of the agreement is manifestly incompatible with
1044 public policy;

1045 (b) the agreement was obtained by fraud or falsification;

1046 (c) the agreement is incompatible with a support order involving the same parties and
1047 having the same purpose in this state, another state, or a foreign country if the support order is
1048 entitled to recognition and enforcement under this chapter in this state; or

1049 (d) the record submitted under Subsection (2) lacks authenticity or integrity.

1050 (5) A proceeding for recognition and enforcement of a foreign support agreement shall

1051 be suspended during the pendency of a challenge to or appeal of the agreement before a
1052 tribunal of another state or a foreign country.

1053 Section 54. Section **78B-14-711** is enacted to read:

1054 **78B-14-711. Modification of convention child support order.**

1055 (1) A tribunal of this state may not modify a convention child support order if the
1056 obligee remains a resident of the foreign country where the support order was issued unless:

1057 (a) the obligee submits to the jurisdiction of a tribunal of this state, either expressly or
1058 by defending on the merits of the case without objecting to the jurisdiction at the first available
1059 opportunity; or

1060 (b) the foreign tribunal lacks or refuses to exercise jurisdiction to modify its support
1061 order or issue a new support order.

1062 (2) If a tribunal of this state does not modify a convention child support order because
1063 the order is not recognized in this state, Subsection 78B-14-708(3) applies.

1064 Section 55. Section **78B-14-712** is enacted to read:

1065 **78B-14-712. Personal information -- Limit on use.**

1066 Personal information gathered or transmitted under this part may be used only for the
1067 purposes for which it was gathered or transmitted.

1068 Section 56. Section **78B-14-713** is enacted to read:

1069 **78B-14-713. Record in original language -- English translation.**

1070 A record filed with a tribunal of this state under this part shall be in the original
1071 language and, if not in English, shall be accompanied by an English translation.

1072 Section 57. Section **78B-14-901** is amended to read:

1073 **78B-14-901. Uniformity of application and construction.**

1074 This chapter is a uniform act. In applying and construing it, consideration [~~must~~] shall
1075 be given to the need to promote uniformity of the law with respect to its subject matter among
1076 states that enact it.

1077 Section 58. Section **78B-14-902** is enacted to read:

1078 **78B-14-902. Transitional provision.**

1079 The 2011 amendments to this chapter apply to proceedings begun on or after May 10,
1080 2011:

1081 (1) to establish a support order or determine parentage of a child; or

1082 (2) to register, recognize, enforce, or modify a prior support order, determination, or

1083 agreement, whenever issued or entered.

1083a **§→ Section 59. Effective Date.**

1083b **This bill takes effect on July 1, 2013. ←§**

Legislative Review Note
as of **12-16-10 2:26 PM**

Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 34, 2011 General Session

SHORT TITLE: Uniform Interstate Family Support Act

SPONSOR: Hillyard, L.

STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.