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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2002

ENROLLED

SENATE BILL NO. 485

(By Senator Snyder, et al)

PASSED March 9, 2002

In Effect 90 days from **Passage**

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SECRETARY OF STATE

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Senate Bill No. 485

(BY SENATORS SNYDER, CALDWELL, FANNING,
MINARD, ROWE, UNGER AND MINEAR)

[Passed March 9, 2002: in effect ninety days from passage.]

AN ACT to amend and reenact article sixteen, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to interstate family support act.

Be it enacted by the Legislature of West Virginia:

That article sixteen, chapter forty-eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 16. UNIFORM INTERSTATE FAMILY SUPPORT ACT.

PART I. GENERAL PROVISIONS.

§48-16-101. Short title.

- 1 This article may be cited as the uniform interstate family
- 2 support act.

§48-16-102. Definitions.

1 As used in this article:

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

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

10 (3) "Duty of support" means an obligation imposed or
11 imposable by law to provide support for a child, spouse or
12 former spouse, including an unsatisfied obligation to
13 provide support.

14 (4) "Home state" means the state in which a child lived
15 with a parent or a person acting as parent for at least six
16 consecutive months immediately preceding the time of
17 filing of a petition or comparable pleading for support
18 and, if a child is less than six months old, the state in
19 which the child lived from birth with any of them. A
20 period of temporary absence of any of them is counted as
21 part of the six-month or other period.

22 (5) "Income" includes earnings or other periodic
23 entitlements to money from any source and any other
24 property subject to withholding for support under the law
25 of this state.

26 (6) "Income-withholding order" means an order or other
27 legal process directed to an obligor's source of income as
28 defined by section 1-240 of this chapter to withhold
29 support from the income of the obligor.

30 (7) "Initiating state" means a state from which a pro-
31 ceeding is forwarded or in which a proceeding is filed for
32 forwarding to a responding state under this article or a
33 law or procedure substantially similar to this article.

34 (8) "Initiating tribunal" means the authorized tribunal
35 in an initiating state.

36 (9) "Issuing state" means the state in which a tribunal
37 issues a support order or renders a judgment determining
38 parentage.

39 (10) "Issuing tribunal" means the tribunal that issues a
40 support order or renders a judgment determining parent-
41 age.

42 (11) "Law" includes decisional and statutory law and
43 rules having the force of law.

44 (12) "Obligee" means:

45 (A) An individual to whom a duty of support is or is
46 alleged to be owed or in whose favor a support order has
47 been issued or a judgment determining parentage has been
48 rendered;

49 (B) A state or political subdivision to which the rights
50 under a duty of support or support order have been
51 assigned or which has independent claims based on
52 financial assistance provided to an individual obligee; or

53 (C) An individual seeking a judgment determining
54 parentage of the individual's child.

55 (13) "Obligor" means an individual or the estate of a
56 decedent:

57 (A) Who owes or is alleged to owe a duty of support;

58 (B) Who is alleged but has not been adjudicated to be a
59 parent of a child; or

60 (C) Who is liable under a support order.

61 (14) "Person" means an individual, corporation, business
62 trust, estate, trust, partnership, limited liability company,
63 association, joint venture, government; governmental
64 subdivision, agency or instrumentality; public corporation;
65 or any other legal or commercial entity.

66 (15) "Record" means information that is inscribed on a
67 tangible medium or that is stored in an electronic or other
68 medium and is retrievable in perceivable form.

69 (16) "Register" means to record a support order or
70 judgment determining parentage in the registry of foreign
71 support orders.

72 (17) "Registering tribunal" means a tribunal in which a
73 support order is registered.

74 (18) "Responding state" means a state in which a
75 proceeding is filed or to which a proceeding is forwarded
76 for filing from an initiating state under this article or a
77 law or procedure substantially similar to this article.

78 (19) "Responding tribunal" means the authorized
79 tribunal in a responding state.

80 (20) "Spousal support order" means a support order for
81 a spouse or former spouse of the obligor.

82 (21) "State" means a state of the United States, the
83 District of Columbia, Puerto Rico, the United States
84 Virgin Islands or any territory or insular possession
85 subject to the jurisdiction of the United States. The term
86 includes:

87 (A) An Indian tribe; and

88 (B) A foreign country or political subdivision that:

89 (i) Has been declared to be a foreign reciprocating
90 country or political subdivision under federal law;

91 (ii) Has established a reciprocal arrangement for child
92 support with this state as provided in section 308; or

93 (iii) Has enacted a law or established procedures for
94 issuance and enforcement of support orders which are
95 substantially similar to the procedures under this article.

96 (22) "Support enforcement agency" means a public
97 official or agency authorized to seek:

98 (A) Enforcement of support orders or laws relating to the
99 duty of support;

100 (B) Establishment or modification of child support;

101 (C) Determination of parentage;

102 (D) Location of obligors or their assets; or

103 (E) Determination of the controlling child support order.

104 (23) "Support order" means a judgment, decree, order, or
105 directive, whether temporary, final or subject to modifica-
106 tion, issued by a tribunal for the benefit of a child, a
107 spouse or a former spouse which provides for monetary
108 support, health care, arrearages or reimbursement and
109 may include related costs and fees, interest, income
110 withholding, attorney's fees and other relief.

111 (24) "Tribunal" means a court, administrative agency or
112 quasijudicial entity authorized to establish, enforce or
113 modify support orders or to determine parentage.

§48-16-103. Tribunal of state.

1 The family court is the tribunal of this state.

§48-16-104. Remedies cumulative.

1 (a) Remedies provided by this article are cumulative and
2 do not affect the availability of remedies under other law,
3 including the recognition of a support order of a foreign
4 country or political subdivision the basis of comity.

5 (b) This article does not:

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

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

PART II. JURISDICTION.

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

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

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

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

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

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

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

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

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

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

24 (b) The basis of personal jurisdiction set forth in subsec-
25 tion (a) or in any other law of this state may not be used to
26 acquire personal jurisdiction for a tribunal of the state to
27 modify a child support order of another state unless the
28 requirements of sections 611 or 615 are met.

§48-16-202. Duration of personal jurisdiction.

1 Personal jurisdiction acquired by a tribunal of this state
2 in a proceeding under this article or other law of this state
3 relating to a support order continues as long as a tribunal
4 of this state has continuing, exclusive jurisdiction to
5 modify its order or continuing jurisdiction to enforce its
6 order as provided by sections 205, 206 and 211.

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

1 Under this article, a tribunal of this state may serve as
2 an initiating tribunal to forward proceedings to another
3 state and as a responding tribunal for proceedings initi-
4 ated in another state.

§48-16-204. Simultaneous proceedings.

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

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

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

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

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

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

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

22 (3) If relevant, the other state is the home state of the
23 child.

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

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

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

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

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

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

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

25 (c) If a tribunal of another state has issued a child
26 support order pursuant to the uniform interstate family
27 support act or a law substantially similar to that article

28 which modifies a child support order of a tribunal of this
29 state, tribunals of this state shall recognize the continuing,
30 exclusive jurisdiction of the tribunal of the other state.

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

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

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

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

5 (1) The order if the order is the controlling order and has
6 not been modified by a tribunal of another state that
7 assumed jurisdiction pursuant to the uniform family
8 support act; or

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

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

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

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

4 (b) If a proceeding is brought under this article, and two
5 or more child support orders have been issued by tribunals

6 of this state or another state with regard to the same
7 obligor and same child, a tribunal of this state having
8 personal jurisdiction over both the obligor and individual
9 obligee shall apply the following rules and by order shall
10 determine which order controls:

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

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

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

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

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

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

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

38 (e) The tribunal that issued the order that must be
39 recognized as controlling under subsection (a), (b) or (c)

40 has continuing jurisdiction to the extent provided in
41 section 16-205 or 206.

42 (f) A tribunal of this state that determines by order
43 which is the controlling child support order under subdivi-
44 sions (1) and (2) of subsection (b) or subsection (c) or that
45 issued a new controlling child support order under subdivi-
46 sion (3) of subsection (b) shall state in that order:

47 (1) The basis upon which the tribunal made its determi-
48 nation;

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

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

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

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

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

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

§48-16-209. Credit for payments.

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

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

1 A tribunal of this state exercising personal jurisdiction
2 over a nonresident in a proceeding under this article,
3 under other law of this state relating to a support order, or
4 recognizing a support order of a foreign country or politi-
5 cal subdivision on the basis of comity may receive evidence
6 from another state pursuant to section 316, communica-
7 tion with a tribunal or another state pursuant to section
8 317, and obtain discovery through a tribunal of another
9 state pursuant to section 318. In all other respects, articles
10 3 through 7, inclusive, of this chapter do not apply and the
11 tribunal shall apply the procedural and substantive law of
12 this state.

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

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

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

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

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

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

PART III. CIVIL PROCEDURES OF GENERAL APPLICATION.

§48-16-301. Proceedings under article.

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

3 (b) An individual petitioner or a support enforcement
4 agency may commence a proceeding authorized under this
5 article by filing a petition in an initiating tribunal for
6 forwarding to a responding tribunal or by filing a petition
7 or a comparable pleading directly in a tribunal of another
8 state which has or can obtain personal jurisdiction over
9 the respondent.

§48-16-302. Proceeding by minor parent.

1 A minor parent, or a guardian or other legal representa-
2 tive of a minor parent, may maintain a proceeding on
3 behalf of or for the benefit of the minor's child.

§48-16-303. Application of law of state.

1 Except as otherwise provided in this article, a respond-
2 ing tribunal of this state shall:

3 (1) Apply the procedural and substantive law generally
4 applicable to similar proceedings originating in this state
5 and may exercise all powers and provide all remedies
6 available in those proceedings; and

7 (2) Determine the duty of support and the amount
8 payable in accordance with the law and support guidelines
9 of this state.

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

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

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

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

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

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

1 (a) When a responding tribunal of this state receives a
2 petition or comparable pleading from an initiating tribu-
3 nal or directly pursuant to subsection (b), section 16-301,
4 it shall cause the petition or pleading to be filed and notify
5 the petitioner where and when it was filed.

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

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

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

14 (3) Order income withholding;

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

- 17 (5) Enforce orders by civil contempt;
- 18 (6) Set aside property for satisfaction of the support
19 order;
- 20 (7) Place liens and order execution on the obligor's
21 property;
- 22 (8) Order an obligor to keep the tribunal informed of the
23 obligor's current residential address, telephone number,
24 employer, address of employment and telephone number
25 at the place of employment;
- 26 (9) Issue a capias for an obligor who has failed after
27 proper notice to appear at a hearing ordered by the
28 tribunal and enter the capias in any local and state
29 computer systems for criminal warrants;
- 30 (10) Order the obligor to seek appropriate employment
31 by specified methods;
- 32 (11) Award reasonable attorney's fees and other fees and
33 costs; and
- 34 (12) Grant any other available remedy.
- 35 (c) A responding tribunal of this state shall include in a
36 support order issued under this article or, in the docu-
37 ments accompanying the order, the calculations on which
38 the support order is based.
- 39 (d) A responding tribunal of this state may not condition
40 the payment of a support order issued under this article
41 upon compliance by a party with provisions for visitation.
- 42 (e) If a responding tribunal of this state issues an order
43 under this article, the tribunal shall send a copy of the
44 order to the petitioner and the respondent and to the
45 initiating tribunal, if any.
- 46 (f) If requested to enforce a support order, arrears, or
47 judgment or modify a support order stated in a foreign
48 currency, a responding tribunal of this state shall convert

49 the amount stated in the foreign currency to the equivalent
50 amount in dollars under the applicable official or market
51 exchange rate as publicly reported.

§48-16-306. Inappropriate tribunal.

1 If a petition or comparable pleading is received by an
2 inappropriate tribunal of this state, the tribunal shall
3 forward the pleading and accompanying documents to an
4 appropriate tribunal in this state or another state and
5 notify the petitioner where and when the pleading was
6 sent.

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

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

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

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

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

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

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

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

22 (6) Notify the petitioner if jurisdiction over the respon-
23 dent cannot be obtained.

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

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

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

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

40 (e) A support enforcement agency of this state shall
41 request a tribunal of this state to issue a child support
42 order and an income withholding order that redirect
43 payment of current support, arrears and interest if re-
44 quested to do so by a support enforcement agency of
45 another state pursuant to section 319 of the uniform
46 interstate family support act.

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

§48-16-308. Duty of West Virginia support enforcement commission.

1 (a) If the West Virginia support enforcement commission
2 determines that the support enforcement agency is ne-
3 glecting or refusing to provide services to an individual,
4 the commission may order the agency to perform its duties
5 under this article or may provide those services directly to
6 the individual.

7 (b) The West Virginia support enforcement commission
8 may determine that a foreign country or political subdivi-
9 sion has established a reciprocal arrangement for child
10 support with this state and take appropriate action for
11 notification of the determination.

§48-16-309. Private counsel.

1 An individual may employ private counsel to represent
2 the individual in proceedings authorized by this article.

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

1 (a) The bureau for child support enforcement is the state
2 information agency under this article.

3 (b) The state information agency shall:

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

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

12 (3) Forward to the appropriate tribunal in the county in
13 this state in which the obligee who is an individual or the
14 obligor resides, or in which the obligor's property is
15 believed to be located, all documents concerning a pro-
16 ceeding under this article received from an initiating
17 tribunal or the state information agency of the initiating
18 state; and

19 (4) Obtain information concerning the location of the
20 obligor and the obligor's property within this state not
21 exempt from execution, by such means as postal verifica-
22 tion and federal or state locator services, examination of
23 telephone directories, requests for the obligor's address
24 from employers and examination of governmental records,

25 including, to the extent not prohibited by other law, those
26 relating to real property, vital statistics, law enforcement,
27 taxation, motor vehicles, driver's licenses and social
28 security.

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

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

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

§48-16-312. Nondisclosure of information in exceptional circumstances.

1 If a party alleges in an affidavit or a pleading under oath
2 that the health, safety, or liberty of a party or child would
3 be jeopardized by disclosure of specific identifying infor-
4 mation, that information must be sealed and may not be
5 disclosed to the other party or the public. After a hearing
6 in which a tribunal takes into consideration the health,
7 safety or liberty of the party or child, the tribunal may

8 order disclosure of information that the tribunal deter-
9 mines to be in the interest of justice.

§48-16-313. Costs and fees.

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

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

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

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

1 (a) Participation by a petitioner in a proceeding under
2 this article before a responding tribunal, whether in
3 person, by private attorney, or through services provided
4 by the support enforcement agency, does not confer
5 personal jurisdiction over the petitioner in another pro-
6 ceeding.

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

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

§48-16-315. Nonparentage as defense.

1 A party whose parentage of a child has been previously
2 determined by or pursuant to law may not plead
3 nonparentage as a defense to a proceeding under this
4 article.

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

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

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

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

17 (d) Copies of bills for testing for parentage and for
18 prenatal and postnatal health care of the mother and child,
19 furnished to the adverse party at least ten days before
20 trial, are admissible in evidence to prove the amount of the
21 charges billed and that the charges were reasonable,
22 necessary and customary.

23 (e) Documentary evidence transmitted from another
24 state to a tribunal of this state by telephone, telecopier or

25 other means that do not provide an original record may
26 not be excluded from evidence on an objection based on
27 the means of transmission.

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

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

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

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

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

§48-16-317. Communications between tribunals.

1 A tribunal of this state may communicate with a tribu-
2 nal of another state or foreign country or political subdivi-
3 sion in a record, or by telephone or other means, to obtain
4 information concerning the laws, the legal effect of a

5 judgment, decree, or order of that tribunal and the status
6 of a proceeding in the other state or foreign country or
7 political subdivision. A tribunal of this state may furnish
8 similar information by similar means to a tribunal of
9 another state or foreign country or political subdivision.

§48-16-318. Assistance with discovery.

1 A tribunal of this state may:

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

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

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

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

8 (b) If neither the obligor, nor the obligee who is an
9 individual, nor the child resides in this state, upon request
10 from the support enforcement agency of this state or
11 another state, a tribunal of this state shall:

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

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

18 (c) The support enforcement agency of this state receiv-
19 ing redirected payments from another state pursuant to a

20 law similar to subsection (b) of this section shall furnish to
21 a requesting party or tribunal of the other state a certified
22 statement by the custodian of the record of the amount
23 and dates of all payments received.

PART IV. ESTABLISHMENT OF SUPPORT ORDER.

§48-16-401. Petition to establish support order.

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

4 (1) The individual seeking the order resides in another
5 state; or

6 (2) The support enforcement agency seeking the order is
7 located in another state.

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

11 (1) A presumed father of the child;

12 (2) Petitioning to have his paternity adjudicated;

13 (3) Identified as the father of the child through genetic
14 testing;

15 (4) An alleged father who has declined to submit to
16 genetic testing;

17 (5) Shown by clear and convincing evidence to be the
18 father of the child;

19 (6) An acknowledged father as provided by applicable
20 state law;

21 (7) The mother of the child; or

22 (8) An individual who has been ordered to pay child
23 support in a previous proceeding and the order has not
24 been reversed or vacated.

25 (c) Upon finding, after notice and opportunity to be
26 heard, that an obligor owes a duty of support, the tribunal
27 shall issue a support order directed to the obligor and may
28 issue other orders pursuant to section 16-305.

PART V. DIRECT ENFORCEMENT OF ORDER OF
ANOTHER STATE WITHOUT REGISTRATION.

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

1 An income withholding order issued in another state
2 may be sent by or on behalf of the obligee, or by the
3 support enforcement agency, to the person defined as the
4 obligor's source of income under section 1-241 of this
5 chapter without first filing a petition or comparable
6 pleading or registering the order with a tribunal of this
7 state.

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

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

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

7 (c) Except as provided by subsection (d) and section 16-
8 503, the employer shall withhold and distribute the funds
9 as directed in the withholding order by complying with the
10 terms of the order, as applicable, that specify:

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

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

15 (3) Medical support, whether in the form of periodic cash
16 payment, stated as a sum certain, or ordering the obligor

17 to provide health insurance coverage for the child under a
18 policy available through the obligor's employment;

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

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

24 (d) The employer shall comply with the law of the state
25 of the obligor's principal place of employment for with-
26 holding from income with respect to:

27 (1) The employer's fee for processing an income with-
28 holding order;

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

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

**§48-16-503. Employer's compliance with two or more income
withholding orders.**

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

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

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

§48-16-505. Penalties for noncompliance.

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

§48-16-506. Contest by obligor.

1 (a) An obligor may contest the validity or enforcement of
2 an income withholding order issued in another state and
3 received directly by an employer in this state by register-
4 ing the order in a tribunal of this state and filing a contest
5 to that order as provided in article six, or otherwise
6 contesting the order in the same manner as if the order had
7 been issued by a tribunal of this state. Section 604 applies
8 to the contest.

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

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

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

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

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

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

6 (b) Upon receipt of the documents, the support enforce-
7 ment agency, without initially seeking to register the
8 order, shall consider and, if appropriate, use any adminis-

9 trative procedure authorized by the law of this state to
10 enforce a support order or an income withholding order, or
11 both. If the obligor does not contest administrative
12 enforcement, the order need not be registered. If the
13 obligor contests the validity or administrative enforcement
14 of the order, the support enforcement agency shall register
15 the order pursuant to this article.

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

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

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

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

1 (a) A support order or income withholding order of
2 another state may be registered in this state by sending the
3 following records and information to the state information
4 agency who shall forward the order to the appropriate
5 tribunal:

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

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

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

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

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

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

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

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

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

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

31 (d) If two or more orders are in effect, the person re-
32 questing registration shall:

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

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

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

39 (e) A request for a determination of which is the control-
40 ling order may be filed separately or with a request for
41 registration and enforcement or for registration and
42 modification. The person requesting registration shall give
43 notice of the request to each party whose rights may be
44 affected by the determination.

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

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

4 (b) A registered order issued in another state is enforce-
5 able in the same manner and is subject to the same proce-
6 dures as an order issued by a tribunal of this state.

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

§48-16-604. Choice of law.

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

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

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

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

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

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

17 (d) After a tribunal of this or another state determines
18 which is the controlling order and issues an order consoli-
19 dating arrears, if any, a tribunal of this state shall pro-
20 spectively apply the law of the state issuing the controlling
21 order, including its law on interest on arrears, on current
22 and future support and on consolidated arrears.

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

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

5 documents and relevant information accompanying the
6 order.

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

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

11 (2) That a hearing to contest the validity or enforcement
12 of the registered order must be requested within twenty
13 days after notice;

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

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

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

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

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

28 (3) State the procedures provided in subsection (b) of this
29 section apply to the determination of which is the control-
30 ling order; and

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

35 (d) Upon registration of an income withholding order for
36 enforcement, the registering tribunal shall notify the

37 obligor's source of income pursuant to part 14-401, *et seq.*,
38 of this chapter.

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

1 (a) A nonregistering party seeking to contest the validity
2 or enforcement of a registered order in this state shall
3 request a hearing within twenty days after the date of
4 mailing or personal service of notice of the registration.
5 The nonregistering party may seek to vacate the registra-
6 tion, to assert any defense to an allegation of noncompli-
7 ance with the registered order, or to contest the remedies
8 being sought or the amount of any alleged arrearages
9 pursuant to section 16-607.

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

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

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

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

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

7 (2) The order was obtained by fraud;

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

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

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

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

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

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

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

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

§48-16-608. Confirmed order.

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

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

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

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

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

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

1 (a) If section 613 does not apply, except as otherwise
2 provided in section 615, upon petition a tribunal of this
3 state may modify a child support order issued in another
4 state which is registered in this state if, after notice and
5 hearing, the tribunal finds that:

6 (1) The following requirements are met:

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

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

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

13 (2) This state is the state of residence of the child or a
14 party who is an individual is subject to the personal
15 jurisdiction of the tribunal of this state and all of the
16 parties who are individuals have filed consents in a record
17 in the issuing tribunal for a tribunal of this state to modify
18 the support order and assume continuing, exclusive
19 jurisdiction.

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

25 (c) Except as otherwise provided in section 615, a
26 tribunal of this state may not modify any aspect of a child
27 support order that may not be modified under the law of
28 the issuing state, including the duration of the obligation
29 of support. If two or more tribunals have issued child
30 support orders for the same obligor and child, the order
31 that controls and must be so recognized under section 16-
32 207 establishes the aspects of the support order which are
33 nonmodifiable.

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

41 (e) On issuance of an order by a tribunal of this state
42 modifying a child support order issued in another state,
43 the tribunal of this state becomes the tribunal of continu-
44 ing, exclusive jurisdiction.

§48-16-612. Recognition of order modified in another state.

1 If a child support order issued by a tribunal of this state
2 is modified by a tribunal of another state which assumed
3 jurisdiction pursuant to the uniform interstate family
4 support act, a tribunal of this state:

5 (1) May enforce its order that was modified only as to
6 arrears and interest accruing before the modification;

7 (2) May provide appropriate relief for violations of its
8 order which occurred before the effective date of the
9 modification; and

10 (3) Shall recognize the modifying order of the other
11 state, upon registration, for the purpose of enforcement.

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

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

6 (b) A tribunal of this state exercising jurisdiction as
7 provided in this section shall apply the provisions of parts
8 1 and 2 and this part to the enforcement or modification
9 proceeding. Parts 3 through 5, inclusive, and parts 7 and
10 8 do not apply and the tribunal shall apply the procedural
11 and substantive law of this state.

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

1 Within thirty days after issuance of a modified child
2 support order, the party obtaining the modification shall
3 file a certified copy of the order with the issuing tribunal
4 which had continuing, exclusive jurisdiction over the
5 earlier order and in each tribunal in which the party
6 knows that earlier order has been registered. Failure of
7 the party obtaining the order to file a certified copy as
8 required subjects that party to appropriate sanctions by a
9 tribunal in which the issue of failure to file arises, but that
10 failure has no effect on the validity or enforceability of the
11 modified order of the new tribunal of continuing, exclusive
12 jurisdiction.

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

1 (a) If a foreign country or political subdivision that is a
2 state will not or may not modify its order pursuant to its
3 laws, a tribunal of this state may assume jurisdiction to
4 modify the child support order and bind all individuals
5 subject to the personal jurisdiction of the tribunal whether
6 or not the consent to modification of a child support order
7 otherwise required of the individual pursuant to section
8 611 has been given or whether the individual seeking
9 modification is a resident of this state or of the foreign
10 country or political subdivision.

11 (b) An order issued pursuant to this section is the
12 controlling order.

PART VII. DETERMINATION OF PARENTAGE.

§48-16-701. Proceeding to determine parentage.

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

PART VIII. INTERSTATE RENDITION.

§48-16-801. Grounds for rendition.

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

4 (b) The governor of this state may:

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

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

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

§48-16-802. Conditions of rendition.

1 (a) Before making demand that the governor of another
2 state surrender an individual charged criminally in this
3 state with having failed to provide for the support of an

4 obligee, the governor of this state may require a prosecutor
5 of this state to demonstrate that at least sixty days previ-
6 ously the obligee had initiated proceedings for support
7 pursuant to this article or that the proceeding would be of
8 no avail.

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

21 (c) If a proceeding for support has been initiated and the
22 individual whose rendition is demanded prevails, the
23 governor may decline to honor the demand. If the peti-
24 tioner prevails and the individual whose rendition is
25 demanded is subject to a support order, the governor may
26 decline to honor the demand if the individual is complying
27 with the support order.

PART IX. MISCELLANEOUS PROVISIONS.

§48-16-901. Uniformity of application and construction.

1 In applying and construing this Uniform Act consider-
2 ation must be given to the need to promote uniformity of
3 the law with respect to its subject matter among states
4 that enact it.

§48-16-902. Severability clause.

1 If any provision of this article or its application to any
2 person or circumstance is held invalid, the invalidity does
3 not affect other provisions or applications of this article

4 which can be given effect without the invalid provision or
5 application and to this end the provisions of this article
6 are severable.

§48-16-903. Effective date.

1 The provisions of this article originally enacted during
2 the regular session of the Legislature in the year one
3 thousand nine hundred ninety-seven were effective on the
4 first day of January, one thousand nine hundred ninety-
5 eight. The provisions of this article enacted during the
6 regular session of the Legislature in the year two thousand
7 two take effect on the first day of July, two thousand two.

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

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 2nd
Day of April, 2002.

Governor

PRESENTED TO THE

GOVERNOR

Date 3/25/02

Time 11:15 am