

House Research Act Summary

CHAPTER: 189

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TOPIC: Uniform Interstate Family Support Act

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Overview

This act updates the Uniform Interstate Family Support Act by adding conforming technical changes with the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance. Similar to the way the law operates to assist in enforcement of child support orders between states, these updates will assist in creating uniformity so that support orders can be modified and enforced between countries. The updates were drafted in 2008 and have been enacted in ten states: Florida, Maine, Missouri, Nevada, New Mexico, North Dakota, Rhode Island, Tennessee, Utah, and Wisconsin. This act is effective the date that the United State deposits the instrument of ratification with the Convention.

Section

- 1** **Definitions.** Adds definitions necessary for interstate child support actions and foreign jurisdictions including “foreign country,” “foreign tribunal,” and “initiating tribunal.”
- 2** **State Tribunal and Support Enforcement Agency.** Clarifies that the Department of Human Services and county enforcement agencies are the support enforcement agencies of this state.
- 3** **Remedies cumulative.** Clarifies that this chapter does not create an exclusive method for establishing support in Minnesota and that it does not grant Minnesota the ability to issue an order related to custody or parenting time under this chapter.
- 4** **Application of chapter to resident of foreign country and foreign support proceeding.** Creates a new statute to apply current laws to foreign support orders and children and parents residing in foreign countries.

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- 5 Bases for jurisdiction over nonresident.** Prevents the existing statute from being used to create personal jurisdiction to modify a child support order from another state or foreign country except for specific exceptions.
- 6 Duration of personal jurisdiction.** Provides the basis for personal jurisdiction to continue to modify an order or continue to enforce a child support order.
- 7 Initiating and responding tribunal of this state.** Adds conforming technical language.
- 8 Simultaneous proceedings in another state.** Adds conforming technical language.
- 9 Continuing, exclusive jurisdiction to modify child support order.** Clarifies that the determination for jurisdiction is at the time of filing and that the state can have continuing jurisdiction with the consent of all the parties even when the parties no longer reside here. This section also provides for situations when the court may not exercise continuing, exclusive jurisdiction. Provides conforming technical language to provide that the courts will recognize the jurisdiction of another state when they have issued an order under this chapter or a similar one to modify a child support order from Minnesota. This section adds that a court in Minnesota that does not have continuing jurisdiction can forward a petition for child support to another court to modify an order. This section removes language related to the jurisdiction of spousal support obligations.
- 10 Enforcement and modification of support order by tribunal having continuing jurisdiction.** Clarifies when a Minnesota court can request another state to enforce an order.
- 11 Recognition of controlling child support order.** Provides which court order is controlling when more than one court order is issued or more than one court has jurisdiction and the process to determine which order is proper if more than one order has been issued and that the order issued as to which jurisdiction is controlling must be recognized.
- 12 Child support orders for two or more obligees.** Adds conforming technical language.
- 13 Credit for payment.** Adds conforming technical language.
- 14 Application to nonresident subject to personal jurisdiction.** Allows the courts in Minnesota to use evidence, discovery, and communication from outside jurisdictions when exercising jurisdiction over someone not in this state.
- 15 Continuing, exclusive jurisdiction to modify spousal support order.** Creates a new statute to provide for jurisdiction on spousal support orders.
- 16 Proceedings under this chapter.** Adds conforming technical language.
- 17 Application of law of this state.** Makes technical changes.
- 18 Duties of initiating tribunal.** Provides process for a court to send a case to another jurisdiction.

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- 19 Duties and power of responding tribunal.** Provides that when a court in Minnesota is the responding court they can establish a child support order, modify the order, determine which order is the controlling order, and determine the parentage of a child. Adds that an obligor can be ordered to provide their email address to the court. The court can convert the foreign currency in an order to American dollars to allow for enforcement of the child support order.
- 20 Inappropriate tribunal.** Makes conforming technical changes.
- 21 Duties of support enforcement agency.** Makes conforming technical changes and requires the child support enforcement agency that is attempting to register a child support order to ensure that the order they are enforcing is a controlling order or they request that a controlling order be determined. Directs the child support enforcement agency to convert the currency to dollars under the official or market exchange rate that is publically reported. This section adds a provision that allows the state to issue an order for income withholding if it is requested by another state enforcement agency.
- 22 Duty of attorney general.** Adds a provision to allow the attorney general to determine when a foreign country has established a reciprocal arrangement for child support and act to provide notice of that determination.
- 23 Duties of state information agency.** Makes conforming technical changes.
- 24 Pleading and accompanying documents.** Clarifies that to register or modify a support order from another state or foreign country the petitioner must file a petition.
- 25 Nondisclosure of information in exceptional circumstances.** Changes the provisions on how the court can seal and keep confidential from other parties or the public identifying information if it would jeopardize the health, safety, or liberty of a party or a child, the court can order after a hearing the disclosure of some information if the court determines it is in the interest of justice.
- 26 Costs and fees.** Makes conforming technical changes.
- 27 Limited immunity of petitioner.** Makes technical changes.
- 28 Special rules of evidence and procedure.** Makes technical changes and requires the court to allow witnesses and parties outside the state to testify by phone or other electronic means and to work with other courts to get testimony or depositions. This section also adds a provision that a voluntary acknowledgment of paternity that is certified as a true copy is admissible to establish parentage of a child.
- 29 Communication between tribunals.** Makes technical changes, and allows email communication between courts.
- 30 Assistance with discovery.** Makes technical changes.

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- 31 Receipt and disbursement of payments.** Provides for another state to take over in enforcement when the parties and child are not residing in the state and requires the enforcement agency in this state to provide records on payments received for money that has been redirected.
- 32 Establishment of support order.** Requires personal jurisdiction to issue a support order and makes conforming technical changes. This section also clarifies when a temporary order should be issued.
- 33 Proceeding to determine parentage.** Provides that a court in Minnesota can be the responding court in a proceeding to determine parentage if the action is brought under a similar statute, which allows Minnesota to accept jurisdiction over a case that was filed in another jurisdiction but is forwarded to Minnesota.
- 34 Employer's receipt of income-withholding order of another state.** Expands who can send the income withholding order to the employer.
- 35 Employer's compliance with two or more income-withholding orders.** Provides what the employer can do if they receive two or more income-withholding orders.
- 36 Immunity from civil liability.** Makes technical changes.
- 37 Penalties for noncompliance.** Makes technical changes.
- 38 Contest by obligor.** Provides that a party wishing to challenge the enforcement of an income-withholding order issued in another state and received by an employer in this state can register the order with a court in this state and contest the order.
- 39 Administrative enforcement of orders.** Adds that a support enforcement agency seeking to enforce a support order from another jurisdiction can send the documents to the enforcement agency in this state.
- 40 Registration of order for enforcement.** Makes conforming technical changes.
- 41 Procedure to register order for enforcement.** Makes conforming technical changes, provides an exception to registration of a foreign order, and provides an exception to when the name and address of the obligee is to be included in the filing documents. Adds a paragraph to clarify that the person seeking to register an order must provide both orders if there are two or more orders in effect and specify which order is alleged to be controlling and the amount of consolidated arrears and allows a request to determine which order is controlling to be filed with the registration request or separately.
- 42 Effect of registration for enforcement.** Makes conforming technical changes.
- 43 Choice of law.** Provides that the law of the issuing state or country determines how payments occur under a registered order, how arrears are calculated and interest on those arrears, and the satisfaction of the support obligation. This section also provides that a responding court in this state shall apply the procedures and remedies available in Minnesota to collect and enforce a support order from another jurisdiction and an exception that

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Minnesota will prospectively apply the law of the state or foreign country that on an order that has been determined to be controlling.

- 44** **Notice of registration of order.** Makes conforming changes and references the statute that provides the procedure and rules to contest the registration of a support order and provides how to register an order if there are two or more orders are in effect.
- 45** **Procedure to contest validity or enforcement of registered support order.** Provides statutory reference regarding the timelines for disputing the registration of a support order and makes conforming technical changes.
- 46** **Contest of registration or enforcement.** Adds that the order is not a controlling order is a defense to the registration of a child support order.
- 47** **Confirmed order.** Makes conforming technical changes.
- 48** **Procedure to register child support order of another state for modification.** Changes a statutory citation.
- 49** **Effect of registration for modification.** Makes conforming technical changes.
- 50** **Modification of child support order of another state.** Amends the language related to modification of an order from another jurisdiction and specifies that aspects of the order that could not be modified in the law of the issuing state may not be modified by Minnesota courts. This section also finds that the courts in Minnesota retain jurisdiction when one party moves to another state and the other party resides outside the United States.
- 51** **Recognition of order modified in another state.** Requires that when a Minnesota order is modified by another state, Minnesota shall only enforce the old order for the purposes of arrears and interest prior to modification and provide relief for violation of the order that occurred prior to modification, but upon registration then shall enforce the modified order from the other state.
- 52** **Jurisdiction to modify support order of another state when individual parties reside in this state.** Makes conforming technical changes.
- 53** **Jurisdiction to modify child support order of foreign country.** Provides that when a foreign country no longer has or refuses to exercise jurisdiction over a child support modification, Minnesota may act over individuals subject to the personal jurisdiction of the court without consent and even when persons are not residents of this state and the order that is issued will be controlling.
- 54** **Procedure to register child support order of foreign country for modification.** Provides that a party or child support enforcement agency can file a petition to modify a foreign support order that is not under the Hague Convention at the same time as a request for registration or at another time.

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- 55** **Definitions.** Removes the procedures on parentage and creates definitions for sections 518.701 to 518.713 regarding initiating, registering, contesting, enforcing, and modifying support orders.
- 56** **Applicability.** Provides that sections 518.701 to 518.713 only apply to child support proceedings under the Hague Convention.
- 57** **Relationship of Department of Human Services to United States central authority.** Provides that the federal Department of Human Services has recognized the Minnesota Department of Human Services as the agency that may act under the convention.
- 58** **Initiation by Department of Human Services of support proceeding under the convention.** Provides that the Minnesota Department of Human Services to provide enforcement services in child support proceedings to establish, modify, and enforce child support in foreign and domestic proceedings.
- 59** **Direct request.** Provides that an individual may request to establish, modify, or enforce a child support order under the applicable laws of the state, but does not require the Department of Human Services to provide assistance to the petitioner who is filing the request. This section provides that the statutes applying to the convention do not prohibit the use of the simplified and expedited rules in Minnesota law for recognition and enforcement of foreign support orders.
- 60** **Registration of convention support order.** Provides the necessary documents to register a foreign support order including: the order and verification of its enforceability in the country it came from, the total arrears, and the due process rights of the respondent. This section provides that the court does not have to register an order if it finds that it would be contrary to public policy and must promptly notify the parties if the order is not registered.
- 61** **Contest of registered convention support order.** References to statutes that apply to contested registration of a support order and provides the regulations for registering a support order under the Hague Convention, specifically the timelines for contesting registration and the basis for contesting the registration.
- 62** **Recognition and enforcement of registered convention support order.** Provides the circumstances under which Minnesota may refuse to register a support order that is under the Hague Convention.
- 63** **Partial enforcement.** Provides that when one part of a foreign order can be enforced and one part cannot the court shall enforce the part that can be enforced.
- 64** **Foreign support agreement.** Provides the terms under which a foreign support agreement can be recognized and enforced in Minnesota.

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- 65** **Modification of convention child support order.** Provides that a Minnesota court cannot modify a child support order when the obligee is still a resident of the foreign country where the order was issued unless that obligee agrees that Minnesota has jurisdiction, the foreign court refuses to exercise jurisdiction, or the order could not be registered because of a lack of jurisdiction, fraud, or lack of authenticity of the order in the foreign jurisdiction.
- 66** **Personal information; limit on use.** Personal information under these section is only to be used for the purposes for which it was gathered.
- 67** **Record in original language; English translation.** Provides that a record of the court proceedings from the foreign country must be in its original language and if not in English must come with an English translation.
- 68** **Grounds for rendition.** Adds a section that the term “governor” applies to and makes conforming technical changes.
- 69** **Transitional provisions.** Adds that the effective date applies to proceedings that are started on or after the effective date of this act to any action to determine parentage, or register, recognize, modify, or enforce an order, agreement, or determination.
- 70** **Short title.** Allows the chapter to be cited as the “Uniform Interstate Family Support Act.”
- 71** **Revisor’s instruction.** Directs the revisor to renumber certain affected sections of the chapter.
- 72** **Repealer.** Repeals 518C.502, which allowed a support order from another state to be enforced without being registered by a child support enforcement agency in Minnesota.
- 73** **Effective date.** This act is effective the date that the United State deposits the instrument of ratification for the Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance with the Hague Conference on Private International Law, which will occur after the language is adopted by all 50 states and the President has signed and deposited the instrument of ratification to the Convention.