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I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN

THIRTY-THIRD GUAM LEGISLATURE

155 Hesler Place, Hagåtña, Guam 96910

March 20, 2015

The Honorable Edward J.B. Calvo
I Maga'lahen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam

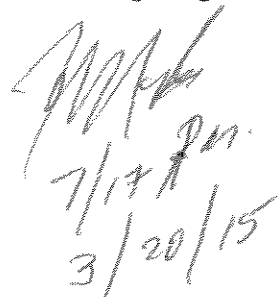
Dear *Maga'lahi* Calvo:

Transmitted herewith is Substitute Bill No. 41-33 (COR) which was passed by *I Mina'Trentai Tres Na Liheslaturan Guåhan* on March 20, 2015.

Sincerely,


RORY J. RESPICIO
Acting Legislative Secretary

Enclosure (1)


7/17/15
3/20/15

I MINA'TRENTAI TRES NA LIHESLATURAN GUÅHAN
2015 (FIRST) Regular Session

CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Substitute Bill No. 41-33 (COR)**, "AN ACT TO REPEAL AND REENACT CHAPTER 35 OF DIVISION 3, TITLE 5, GUAM CODE ANNOTATED, RELATIVE TO ADOPTING REVISIONS TO THE UNIFORM INTERSTATE FAMILY SUPPORT ACT," was on the 20th day of March, 2015, duly and regularly passed.




Judith T. Won Pat, Ed.D.
Speaker

Attested:



Rory J. Respicio
Acting Legislative Secretary

This Act was received by *I Maga'lahaen Guåhan* this 20th day of March,
2015, at 7:19 pm o'clock P.M.



Assistant Staff Officer
Maga'lahaen's Office

APPROVED:

EDWARD J.B. CALVO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

- 1 Article 1. General Provisions.
- 2 Article 2. Jurisdiction.
- 3 Article 3. Civil Provisions of General Application.
- 4 Article 4. Establishment of Support Order or Determination of
- 5 Parentage.
- 6 Article 5. Enforcement of Support Order Without Registration.
- 7 Article 6. Registration, Enforcement, and Modification of Support
- 8 Order.
- 9 Article 7. Support Proceeding Under Convention.
- 10 Article 8. Interstate Rendition.
- 11 Article 9. Miscellaneous Provisions.

12 **ARTICLE 1**

13 **GENERAL PROVISIONS**

- 14 § 35101. Short Title.
- 15 § 35102. Definitions.
- 16 § 35103. State Tribunal and Support Enforcement Agency.
- 17 § 35104. Remedies Cumulative.
- 18 § 35105. Application of Act to Resident of Foreign Country and
- 19 Foreign Support Proceeding.

20 **§ 35101. Short Title.** This Act may be cited as the “Uniform
21 Interstate Family Support Act.”

22 **§ 35102. Definitions.** In this Act:

- 23 (1) *Child* means an individual, whether over or under the age
- 24 of majority, who is or is alleged to be owed a duty of support by the
- 25 individual’s parent or who is or is alleged to be the beneficiary of a
- 26 support order directed to the parent.

1 (2) *Child-support order* means a support order for a child,
2 including a child who has attained the age of majority under the law
3 of the issuing state or foreign country.

4 (3) *Convention* means the Convention on the International
5 Recovery of Child Support and Other Forms of Family Maintenance,
6 concluded at The Hague on November 23, 2007.

7 (4) *Duty of support* means an obligation imposed or
8 imposable by law to provide support for a child, spouse, or former
9 spouse, including an unsatisfied obligation to provide support.

10 (5) *Foreign country* means a country, including a political
11 subdivision thereof, other than the United States, that authorizes the
12 issuance of support orders and:

13 (A) which has been declared under the law of the
14 United States to be a foreign reciprocating country;

15 (B) which has established a reciprocal arrangement for
16 child support with this state as provided in § 35308;

17 (C) which has enacted a law or established procedures
18 for the issuance and enforcement of support orders which are
19 substantially similar to the procedures under this Act; or

20 (D) in which the Convention is in force with respect to
21 the United States.

22 (6) *Foreign support order* means a support order of a foreign
23 tribunal.

24 (7) *Foreign tribunal* means a court, administrative agency, or
25 quasi-judicial entity of a foreign country that is authorized to
26 establish, enforce, or modify support orders or to determine parentage

1 of a child. The term includes a competent authority under the
2 Convention.

3 (8) *Home state* means the state or foreign country in which a
4 child lived with a parent or a person acting as parent for at least six (6)
5 consecutive months immediately preceding the time of filing of a
6 petition or comparable pleading for support and, if a child is less than
7 six (6) months old, the state or foreign country in which the child
8 lived from birth with any of them. A period of temporary absence of
9 any of them is counted as part of the six (6)-month or other period.

10 (9) *Income* includes earnings or other periodic entitlements
11 to money from any source and any other property subject to
12 withholding for support under the law of this state.

13 (10) *Income-withholding order* means an order or other legal
14 process directed to an obligor's employer, or other debtor, as defined
15 by the income-withholding law of Guam, to withhold support from
16 the income of the obligor.

17 (11) *Initiating tribunal* means the tribunal of a state or foreign
18 country from which a petition or comparable pleading is forwarded or
19 in which a petition or comparable pleading is filed for forwarding to
20 another state or foreign country.

21 (12) *Issuing foreign country* means the foreign country in
22 which a tribunal issues a support order or a judgment determining
23 parentage of a child.

24 (13) *Issuing state* means the state in which a tribunal issues a
25 support order or a judgment determining parentage of a child.

1 (14) *Issuing tribunal* means the tribunal of a state or foreign
2 country that issues a support order or a judgment determining
3 parentage of a child.

4 (15) *Law* includes decisional and statutory laws, and rules and
5 regulations having the force of law.

6 (16) *Obligee* means:

7 (A) an individual to whom a duty of support is or is
8 alleged to be owed or in whose favor a support order or a
9 judgment determining parentage of a child has been issued;

10 (B) a foreign country, state, or political subdivision of
11 a state to which the rights under a duty of support or support
12 order have been assigned or which has independent claims
13 based on financial assistance provided to an individual obligee
14 in place of child support;

15 (C) an individual seeking a judgment determining
16 parentage of the individual's child; or

17 (D) a person that is a creditor in a proceeding under
18 Article 7.

19 (17) *Obligor* means an individual, or the estate of a decedent
20 that:

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

22 (B) is alleged but has not been adjudicated to be a
23 parent of a child;

24 (C) is liable under a support order; or

25 (D) is a debtor in a proceeding under Article 7.

1 (18) *Outside this state* means a location in another state or a
2 country other than the United States, whether or not the country is a
3 foreign country.

4 (19) *Person* means an individual, corporation, business trust,
5 estate, trust, partnership, limited liability company, association, joint
6 venture, public corporation, government or governmental subdivision,
7 agency, or instrumentality, or any other legal or commercial entity.

8 (20) *Record* means information that is inscribed on a tangible
9 medium or that is stored in an electronic or other medium and is
10 retrievable in perceivable form.

11 (21) *Register* means to file in a tribunal of this state a support
12 order or judgment determining parentage of a child issued in another
13 state or a foreign country.

14 (22) *Registering tribunal* means a tribunal in which a support
15 order or judgment determining parentage of a child is registered.

16 (23) *Responding state* means a state in which a petition or
17 comparable pleading for support or to determine parentage of a child
18 is filed or to which a petition or comparable pleading is forwarded for
19 filing from another state or a foreign country.

20 (24) *Responding tribunal* means the authorized tribunal in a
21 responding state or foreign country.

22 (25) *Spousal-support order* means a support order for a
23 spouse or former spouse of the obligor.

24 (26) *State* means a state of the United States, the District of
25 Columbia, Guam, Puerto Rico, the United States Virgin Islands, or
26 any territory or insular possession under the jurisdiction of the United
27 States. The term includes an Indian nation or tribe.

1 (27) *Support enforcement agency* means a public official,
2 governmental entity, or private agency authorized to:

3 (A) seek enforcement of support orders or laws
4 relating to the duty of support;

5 (B) seek establishment or modification of child
6 support;

7 (C) request determination of parentage of a child;

8 (D) attempt to locate obligors or their assets; or

9 (E) request determination of the controlling child-
10 support order.

11 (28) *Support order* means a judgment, decree, order, decision,
12 or directive, whether temporary, final, or subject to modification,
13 issued in a state or foreign country for the benefit of a child, a spouse,
14 or a former spouse, which provides for monetary support, health care,
15 arrearages, retroactive support, or reimbursement for financial
16 assistance provided to an individual obligee in place of child support.
17 The term may include related costs and fees, interest, income
18 withholding, automatic adjustment, reasonable attorney's fees, and
19 other relief.

20 (29) *Tribunal* means a court, administrative agency, or quasi-
21 judicial entity authorized to establish, enforce, or modify support
22 orders or to determine parentage of a child.

23 **§ 35103. State Tribunal and Support Enforcement Agency.**

24 (a) The Unified Courts of Guam are the tribunal of this state.

25 (b) The Child Support Enforcement Division of the Office of
26 the Attorney General is the support enforcement agency of this state.

27 **§ 35104. Remedies Cumulative.**

1 (a) Remedies provided by this Act are cumulative and do not
2 affect the availability of remedies under other laws or the recognition
3 of a foreign support order on the basis of comity.

4 (b) This Act does not:

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

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

10 **§ 35105. Application of Act to Resident of Foreign Country**
11 **and Foreign Support Proceeding.**

12 (a) A tribunal of this state *shall* apply Articles 1 through 6
13 and, as applicable, Article 7, to a support proceeding involving:

14 (1) a foreign support order;

15 (2) a foreign tribunal; or

16 (3) an obligee, obligor, or child residing in a foreign
17 country.

18 (b) A tribunal of this state that is requested to recognize and
19 enforce a support order on the basis of comity may apply the
20 procedural and substantive provisions of Articles 1 through 6.

21 (c) Article 7 applies only to a support proceeding under the
22 Convention. In such a proceeding, if a provision of Article 7 is
23 inconsistent with Articles 1 through 6, Article 7 controls.

24 **ARTICLE 2**

25 **JURISDICTION**

26 § 35201. Bases for Jurisdiction over Nonresident.

27 § 35202. Duration of Personal Jurisdiction.

- 1 § 35203. Initiating and Responding Tribunal of State.
- 2 § 35204. Simultaneous Proceedings.
- 3 § 35205. Continuing, Exclusive Jurisdiction to Modify Child-
- 4 Support Order.
- 5 § 35206. Continuing Jurisdiction to Enforce Child-Support Order.
- 6 § 35207. Determination of Controlling Child-Support Order.
- 7 § 35208. Child-Support Orders for Two or More Obligees.
- 8 § 35209. Credit for Payments.
- 9 § 35210. Application of Act to Nonresident Subject to Personal
- 10 Jurisdiction.
- 11 § 35211. Continuing, Exclusive Jurisdiction to Modify Spousal-
- 12 Support Order.

13 **§ 35201. Bases for Jurisdiction over Nonresident.**

14 (a) In a proceeding to establish or enforce a support order or

15 to determine parentage of a child, a tribunal of this state may exercise

16 personal jurisdiction over a nonresident individual or the individual's

17 guardian if:

18 (1) the individual is personally served with summons

19 or notice within this state;

20 (2) the individual submits to the jurisdiction of this

21 state by consent in a record, by entering a general appearance,

22 or by filing a responsive document having the effect of waiving

23 any contest to personal jurisdiction;

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

25 (4) the individual resided in this state and provided

26 prenatal expenses or support for the child;

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

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

6 (7) the individual asserted parentage of a child in a
7 Guam Declaration of Paternity form; or

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

11 (b) The bases of personal jurisdiction set forth in Subsection
12 35201(a), or in any other law of this state, may *not* be used to acquire
13 personal jurisdiction for a tribunal of this state to modify a child-
14 support order of another state unless the requirements of § 35611 are
15 met, or, in the case of a foreign support order, unless the requirements
16 of § 35615 are met.

17 **§ 35202. Duration of Personal Jurisdiction.** Personal jurisdiction
18 acquired by a tribunal of this state in a proceeding under this Act or other
19 law of this state relating to a support order continues as long as a tribunal of
20 this state has continuing, exclusive jurisdiction to modify its order or
21 continuing jurisdiction to enforce its order as provided by §§ 35205, 35206,
22 and 35211.

23 **§ 35203. Initiating and Responding Tribunal of State.** Under
24 this Act, a tribunal of this state may serve as an initiating tribunal to forward
25 proceedings to a tribunal of another state, and as a responding tribunal for
26 proceedings initiated in another state or a foreign country.

27 **§ 35204. Simultaneous Proceedings.**

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

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

9 (2) the contesting party timely challenges the exercise
10 of jurisdiction in the other state or the foreign country; 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 to
13 establish a support order if the petition or comparable pleading is filed
14 before a petition or comparable pleading is filed in another state or a
15 foreign country if:

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

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

22 (3) if relevant, the other state or foreign country is the
23 home state of the child.

24 **§ 35205. Continuing, Exclusive Jurisdiction to Modify Child-**
25 **Support Order.**

26 (a) A tribunal of this state that has issued a child-support
27 order consistent with the law of this state has and *shall* exercise

1 continuing, exclusive jurisdiction to modify its child-support order if
2 the order is the controlling order and:

3 (1) at the time of the filing of a request for
4 modification this state is the residence of the obligor, the
5 individual obligee, or the child for whose benefit the support
6 order is issued; or

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

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

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

23 (2) its order is not the controlling order.

24 (c) If a tribunal of another state has issued a
25 child-support order pursuant to the Uniform Interstate
26 Family Support Act or a law substantially similar to that
27 Act which modifies a child-support order of a tribunal of

1 this state, tribunals of this state *shall* recognize the
2 continuing, exclusive jurisdiction of the tribunal of the
3 other state.

4 (d) A tribunal of this state that lacks continuing,
5 exclusive jurisdiction to modify a child-support order
6 may serve as an initiating tribunal to request a tribunal of
7 another state to modify a support order issued in that
8 state.

9 (e) A temporary support order issued *ex parte*
10 or pending resolution of a jurisdictional conflict does not
11 create continuing, exclusive jurisdiction in the issuing
12 tribunal.

13 **§ 35206. Continuing Jurisdiction to Enforce Child-Support**
14 **Order.**

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

18 (1) the order if the order is the controlling order and
19 has not been modified by a tribunal of another state that
20 assumed jurisdiction pursuant to the Uniform Interstate Family
21 Support Act; or

22 (2) a money judgment for arrears of support and
23 interest on the order accrued before a determination that an
24 order of a tribunal of another state is the controlling order.

25 (b) A tribunal of this state having continuing jurisdiction over a
26 support order may act as a responding tribunal to enforce the order.

27 **§ 35207. Determination of Controlling Child-Support Order.**

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

4 (b) If a proceeding is brought under this Act, and two (2) or
5 more child-support orders have been issued by tribunals of this state,
6 another state, or a foreign country with regard to the same obligor and
7 same child, a tribunal of this state having personal jurisdiction over
8 both the obligor and individual obligee *shall* apply the following rules
9 and by order *shall* determine which order controls and must be
10 recognized:

11 (1) If *only* one (1) of the tribunals would have
12 continuing, exclusive jurisdiction under this Act, the order of
13 that tribunal controls.

14 (2) If *more than* one (1) of the tribunals would have
15 continuing, exclusive jurisdiction under this Act:

16 (A) an order issued by a tribunal in the current
17 home state of the child controls; or

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

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

24 (c) If two (2) or more child-support orders have been issued
25 for the same obligor and same child, upon request of a party who is an
26 individual or that is a support enforcement agency, a tribunal of this
27 state having personal jurisdiction over both the obligor and the obligee

1 who is an individual *shall* determine which order controls under
2 Subsection (b). The request may be filed with a registration for
3 enforcement or registration for modification pursuant to Article 6, or
4 may be filed as a separate proceeding.

5 (d) A request to determine which is the controlling order
6 must be accompanied by a copy of every child-support order in effect
7 and the applicable record of payments. The requesting party *shall* give
8 notice of the request to each party whose rights may be affected by the
9 determination.

10 (e) The tribunal that issued the controlling order under
11 Subsection (a), (b), or (c) has continuing jurisdiction to the extent
12 provided in § 35205 or § 35206.

13 (f) A tribunal of this state that determines by order which is
14 the controlling order under Subsection (b)(1),(b)(2) or (c), or that
15 issues a new controlling order under Subsection (b)(3), *shall* state in
16 that order:

17 (1) the basis upon which the tribunal made its
18 determination;

19 (2) the amount of prospective support, if any; and

20 (3) the total amount of consolidated arrears and
21 accrued interest, if any, under all of the orders after all
22 payments made are credited as provided by § 35209.

23 (g) Within thirty (30) days after issuance of an order
24 determining which is the controlling order, the party obtaining the
25 order *shall* file a certified copy of it in each tribunal that issued or
26 registered an earlier order of child support. A party or support
27 enforcement agency obtaining the order that fails to file a certified

1 copy is subject to appropriate sanctions by a tribunal in which the
2 issue of failure to file arises. The failure to file does not affect the
3 validity or enforceability of the controlling order.

4 (h) An order that has been determined to be the controlling
5 order, or a judgment for consolidated arrears of support and interest, if
6 any, made pursuant to this Section must be recognized in proceedings
7 under this Act.

8 **§ 35208. Child-Support Orders for Two or More Obligees.** In
9 responding to registrations or petitions for enforcement of two (2) or more
10 child-support orders in effect at the same time with regard to the same
11 obligor and different individual obligees, at least one (1) of which was
12 issued by a tribunal of another state or a foreign country, a tribunal of this
13 state *shall* enforce those orders in the same manner as if the orders had been
14 issued by a tribunal of this state.

15 **§ 35209. Credit for Payments.** A tribunal of this state *shall* credit
16 amounts collected for a particular period pursuant to any child-support order
17 against the amounts owed for the same period under any other child-support
18 order for support of the same child issued by a tribunal of this state, another
19 state, or a foreign country.

20 **§ 35210. Application of Act to Nonresident Subject to Personal**
21 **Jurisdiction.** A tribunal of this state exercising personal jurisdiction over a
22 nonresident in a proceeding under this Act, under any other law of this state
23 relating to a support order, or recognizing a foreign support order may
24 receive evidence from outside this state pursuant to § 35316, communicate
25 with a tribunal outside this state pursuant to § 35317, and obtain discovery
26 through a tribunal outside this state pursuant to § 35318. In all other

1 respects, Articles 3 through 6 do not apply, and the tribunal *shall* apply the
2 procedural and substantive law of this state.

3 **§ 35211. Continuing, Exclusive Jurisdiction to Modify Spousal-**
4 **Support Order.**

5 (a) A tribunal of this state issuing a spousal-support order
6 consistent with the law of this state has continuing, exclusive
7 jurisdiction to modify the spousal-support order throughout the
8 existence of the support obligation.

9 (b) A tribunal of this state may not modify a spousal-support
10 order issued by a tribunal of another state or a foreign country having
11 continuing, exclusive jurisdiction over that order under the law of that
12 state or foreign country.

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

15 (1) an initiating tribunal to request a tribunal of
16 another state to enforce the spousal-support order issued in this
17 state; or

18 (2) a responding tribunal to enforce or modify its own
19 spousal-support order.

20 **ARTICLE 3**

21 **CIVIL PROVISIONS OF GENERAL APPLICATION**

22 § 35301. Proceedings Under Act.

23 § 35302. Proceeding by Minor Parent.

24 § 35303. Application of Law of State.

25 § 35304. Duties of Initiating Tribunal.

26 § 35305. Duties and Powers of Responding Tribunal.

27 § 35306. Inappropriate Tribunal.

- 1 § 35307. Duties of Support Enforcement Agency.
- 2 § 35308. Duty of Administrative Hearings Officer or Unified
- 3 Courts of Guam.
- 4 § 35309. Private Counsel.
- 5 § 35310. Duties of Child Support Enforcement Division.
- 6 § 35311. Pleadings and Accompanying Documents.
- 7 § 35312. Nondisclosure of Information in Exceptional
- 8 Circumstances.
- 9 § 35313. Costs and Fees.
- 10 § 35314. Limited Immunity of Petitioner.
- 11 § 35315. Nonparentage as Defense.
- 12 § 35316. Special Rules of Evidence and Procedure.
- 13 § 35317. Communications Between Tribunals.
- 14 § 35318. Assistance with Discovery.
- 15 § 35319. Receipt and Disbursement of Payments.

16 **§ 35301. Proceedings Under Act.**

17 (a) Except as otherwise provided in this Act, this Article

18 applies to all proceedings under this Act.

19 (b) An individual petitioner or a support enforcement agency

20 may initiate a proceeding authorized under this Act by filing a petition

21 in an initiating tribunal for forwarding to a responding tribunal or by

22 filing a petition or a comparable pleading directly in a tribunal of

23 another state or a foreign country which has or can obtain personal

24 jurisdiction over the respondent.

25 **§ 35302. Proceeding by Minor Parent.** A minor parent, or a

26 guardian or other legal representative of a minor parent, may maintain a

27 proceeding on behalf of or for the benefit of the minor’s child.

1 **§ 35303. Application of Law of State.** Except as otherwise
2 provided in this Act, a responding tribunal of this state *shall*:

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

7 (b) determine the duty of support and the amount payable in
8 accordance with the law and support guidelines of this state.

9 **§ 35304. Duties of Initiating Tribunal.**

10 (a) Upon the filing of a petition authorized by this Act, an
11 initiating tribunal of this state *shall* forward the petition and its
12 accompanying documents:

13 (1) to the responding tribunal or appropriate support
14 enforcement agency in the responding state; or

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

19 (b) If requested by the responding tribunal, a tribunal of this
20 state *shall* issue a certificate or other document and make findings
21 required by the law of the responding state. If the responding tribunal
22 is in a foreign country, upon request the tribunal of this state *shall*
23 specify the amount of support sought, convert that amount into the
24 equivalent amount in the foreign currency under applicable official or
25 market exchange rate as publicly reported, and provide any other
26 documents necessary to satisfy the requirements of the responding
27 foreign tribunal.

1 **§ 35305. Duties and Powers of Responding Tribunal.**

2 (a) When a responding tribunal of this state receives a
3 petition or comparable pleading from an initiating tribunal or directly
4 pursuant to § 35301(b), it *shall* cause the petition or pleading to be
5 filed and notify the petitioner where and when it was filed.

6 (b) A responding tribunal of this state, to the extent not
7 prohibited by any other law, may do one (1) or more of the following:

8 (1) establish or enforce a support order, modify a
9 child-support order, determine the controlling child-support
10 order, or determine parentage of a child;

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

13 (3) order income withholding;

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

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

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
23 the obligor's current residential address, electronic-mail
24 address, telephone number, employer, address of employment,
25 and telephone number at the place of employment;

26 (9) issue a bench warrant for an obligor who has failed
27 after proper notice to appear at a hearing ordered by the tribunal

1 and enter the bench warrant in any local and state computer
2 systems for criminal warrants;

3 (10) order the obligor to seek appropriate employment
4 by specified methods;

5 (11) award reasonable attorney's fees and other fees
6 and costs; and

7 (12) grant any other available remedy.

8 (c) A responding tribunal of this state *shall* include in a
9 support order issued under this Act, or in the documents
10 accompanying the order, the calculations on which the support order
11 is based.

12 (d) A responding tribunal of this state may not condition the
13 payment of a support order issued under this Act upon compliance by
14 a party with provisions for visitation.

15 (e) If a responding tribunal of this state issues an order under
16 this Act, the tribunal *shall* send a copy of the order to the petitioner
17 and the respondent and to the initiating tribunal, if any.

18 (f) If requested to enforce a support order, arrears, or
19 judgment or modify a support order stated in a foreign currency, a
20 responding tribunal of this state *shall* convert the amount stated in the
21 foreign currency to the equivalent amount in dollars under the
22 applicable official or market exchange rate as publicly reported.

23 **§ 35306. Inappropriate Tribunal.** If a petition or comparable
24 pleading is received by an inappropriate tribunal of this state, the tribunal
25 *shall* forward the pleading and accompanying documents to an appropriate
26 tribunal of this state, or another state, and notify the petitioner where and
27 when the pleading was sent.

1 **§ 35307. Duties of Support Enforcement Agency.**

2 (a) In a proceeding under this Act, a support enforcement
3 agency of this state, upon request:

4 (1) *shall* provide services to a petitioner residing in a
5 state;

6 (2) *shall* provide services to a petitioner requesting
7 services through a central authority of a foreign country as
8 described in § 35102(5)(A) or (D); and

9 (3) may provide services to a petitioner who is an
10 individual not residing in a state.

11 (b) A support enforcement agency of this state that is
12 providing services to the petitioner *shall*:

13 (1) take all steps necessary to enable an appropriate
14 tribunal of this state, another state, or a foreign country to
15 obtain jurisdiction over the respondent;

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

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

21 (4) within two (2) days, exclusive of Saturdays,
22 Sundays, and legal holidays, after receipt of notice in a record
23 from an initiating, responding, or registering tribunal, send a
24 copy of the notice to the petitioner;

25 (5) within two (2) days, exclusive of Saturdays,
26 Sundays, and legal holidays, after receipt of communication in

1 a record from the respondent or the respondent's attorney, send
2 a copy of the communication to the petitioner; and

3 (6) notify the petitioner if jurisdiction over the
4 respondent cannot be obtained.

5 (c) A support enforcement agency of this state that requests
6 registration of a child-support order in this state for enforcement or for
7 modification *shall* make reasonable efforts:

8 (1) to ensure that the order to be registered is the
9 controlling order; or

10 (2) if two (2) or more child-support orders exist and
11 the identity of the controlling order has not been determined, to
12 ensure that a request for such a determination is made in a
13 tribunal having jurisdiction to do so.

14 (d) A support enforcement agency of this state that requests
15 registration and enforcement of a support order, arrears, or judgment
16 stated in a foreign currency *shall* convert the amounts stated in the
17 foreign currency into the equivalent amounts in dollars under the
18 applicable official or market exchange rate as publicly reported.

19 (e) A support enforcement agency of this state *shall* issue, or
20 request a tribunal of this state to issue, a child-support order and an
21 income-withholding order that redirect payment of current support,
22 arrears, and interest if requested to do so by a support enforcement
23 agency of another state pursuant to § 35319.

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

1 **§ 35308. Duty of Administrative Hearings Officer or Unified**
2 **Courts of Guam.**

3 (a) If the Administrative Hearings Officer or the Unified
4 Courts of Guam determine that the support enforcement agency is
5 neglecting or refusing to provide services to an individual, the
6 Administrative Hearings Officer or the Unified Courts of Guam may
7 order the agency to perform its duties under this Act or may provide
8 those services directly to the individual.

9 (b) The Administrative Hearings Officer or the Unified
10 Courts of Guam may determine that a foreign country has established
11 a reciprocal arrangement for child support with this state and take
12 appropriate action for notification of the determination.

13 **§ 35309. Private Counsel.** An individual may employ private
14 counsel to represent the individual in proceedings authorized by this Act.

15 **§ 35310. Duties of Child Support Enforcement Division.**

16 (a) The Child Support Enforcement Division is the state
17 information agency under this Act.

18 (b) The state information agency *shall*:

19 (1) compile and maintain a current list, including
20 addresses, of the tribunals in this state which have jurisdiction
21 under this Act, and any support enforcement agencies in this
22 state, and transmit a copy to the state information agency of
23 every other state;

24 (2) maintain a register of names and addresses of
25 tribunals and support enforcement agencies received from other
26 states;

1 (3) forward to the appropriate tribunal in the county in
2 the state in which the obligee who is an individual or the
3 obligor resides, or in which the obligor's property is believed to
4 be located, all documents concerning a proceeding under this
5 Act received from another state or a foreign country; and

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

15 **§ 35311. Pleadings and Accompanying Documents.**

16 (a) In a proceeding under this Act, a petitioner seeking to
17 establish a support order, to determine parentage of a child, or to
18 register and modify a support order of a tribunal of another state or a
19 foreign country must file a petition. Unless otherwise ordered under §
20 35312, the petition or accompanying documents must provide, so far
21 as known, the name, residential address, and social security numbers
22 of the obligor and the obligee, or the parent and alleged parent, and
23 the name, sex, residential address, social security number, and date of
24 birth of each child for whose benefit support is sought or whose
25 parentage is to be determined. Unless filed at the time of registration,
26 the petition must be accompanied by a copy of any support order
27 known to have been issued by another tribunal. The petition may

1 include any other information that may assist in locating or identifying
2 the respondent.

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

7 **§ 35312. Nondisclosure of Information in Exceptional**
8 **Circumstances.** If a party alleges in an affidavit or a pleading under oath
9 that the health, safety, or liberty of a party or child would be jeopardized by
10 disclosure of specific identifying information, that information must be
11 sealed and may not be disclosed to the other party or the public. After a
12 hearing in which a tribunal takes into consideration the health, safety, or
13 liberty of the party or child, the tribunal may order disclosure of information
14 that the tribunal determines to be in the interest of justice.

15 **§ 35313. Costs and Fees.**

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

18 (b) If an obligee prevails, a responding tribunal of this state
19 may assess against an obligor filing fees, reasonable attorney's fees,
20 other costs, and necessary travel and other reasonable expenses
21 incurred by the obligee and the obligee's witnesses. The tribunal may
22 not assess fees, costs, or expenses against the obligee or the support
23 enforcement agency of either the initiating or responding state or
24 foreign country, except as provided by any other law. Attorney's fees
25 may be taxed as costs, and may be ordered paid directly to the
26 attorney, who may enforce the order in the attorney's own name.

1 Payment of support owed to the obligee has priority over fees, costs,
2 and expenses.

3 (c) The tribunal *shall* order the payment of costs and
4 reasonable attorney's fees if it determines that a hearing was requested
5 primarily for delay. In a proceeding under Article 6, a hearing is
6 presumed to have been requested primarily for delay if a registered
7 support order is confirmed or enforced without change.

8 **§ 35314. Limited Immunity of Petitioner.**

9 (a) Participation by a petitioner in a proceeding under this
10 Act before a responding tribunal, whether in person, by private
11 attorney, or through services provided by the support enforcement
12 agency, does not confer personal jurisdiction over the petitioner in
13 another proceeding.

14 (b) A petitioner is not amenable to service of civil process
15 while physically present in this state to participate in a proceeding
16 under this Act.

17 (c) The immunity granted by this Section does not extend to
18 civil litigation based on acts unrelated to a proceeding under this Act
19 committed by a party while physically present in this state to
20 participate in the proceeding.

21 **§ 35315. Nonparentage as Defense.** A party whose parentage of
22 a child has been previously determined by or pursuant to law may not plead
23 nonparentage as a defense to a proceeding under this Act.

24 **§ 35316. Special Rules of Evidence and Procedure.**

25 (a) The physical presence of a nonresident party who is an
26 individual in a tribunal of this state is not required for the

1 establishment, enforcement, or modification of a support order or the
2 rendition of a judgment determining parentage of a child.

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

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

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

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

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

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

4 (h) A privilege against disclosure of communications
5 between spouses does not apply in a proceeding under this Act.

6 (i) The defense of immunity based on the relationship of
7 husband and wife or parent and child does not apply in a proceeding
8 under this Act.

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

11 **§ 35317. Communications Between Tribunals.** A tribunal of this
12 state may communicate with a tribunal outside this state in a record or by
13 telephone, electronic mail, or other means, to obtain information concerning
14 the laws, the legal effect of a judgment, decree, or order of that tribunal, and
15 the status of a proceeding. A tribunal of this state may furnish similar
16 information by similar means to a tribunal outside this state.

17 **§ 35318. Assistance with Discovery.** A tribunal of this state may:

18 (a) request a tribunal outside this state to assist in obtaining
19 discovery; and

20 (b) upon request, compel a person over which it has
21 jurisdiction to respond to a discovery order issued by a tribunal
22 outside this state.

23 **§ 35319. Receipt and Disbursement of Payments.**

24 (a) A support enforcement agency or tribunal of this state
25 *shall* disburse promptly any amounts received pursuant to a support
26 order, as directed by the order. The agency or tribunal *shall* furnish to
27 a requesting party or tribunal of another state or a foreign country a

1 certified statement by the custodian of the record of the amounts and
2 dates of all payments received.

3 (b) If neither the obligor, nor the obligee who is an
4 individual, nor the child resides in this state, upon request from the
5 support enforcement agency of this state or another state, the support
6 enforcement agency of this state or a tribunal of this state *shall*:

7 (1) direct that the support payment be made to the
8 support enforcement agency in the state in which the obligee is
9 receiving services; and

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

13 (c) The support enforcement agency of this state receiving
14 redirected payments from another state pursuant to a law similar to
15 Subsection (b) *shall* furnish to a requesting party or tribunal of the
16 other state a certified statement by the custodian of the record of the
17 amount and dates of all payments received.

18 **ARTICLE 4**

19 **ESTABLISHMENT OF SUPPORT ORDER OR DETERMINATION** 20 **OF PARENTAGE**

21 § 35401. Establishment of Support Order.

22 § 35402. Proceeding to Determine Parentage.

23 **§ 35401. Establishment of Support Order.**

24 (a) If a support order entitled to recognition under this Act
25 has not been issued, a responding tribunal of this state with personal
26 jurisdiction over the parties may issue a support order if:

1 (1) the individual seeking the order resides outside this
2 state; or

3 (2) the support enforcement agency seeking the order
4 is located outside this state.

5 (b) The tribunal may issue a temporary child-support order if
6 the tribunal determines that such an order is appropriate and the
7 individual ordered to pay is:

8 (1) a presumed father of the child;

9 (2) petitioning to have his paternity adjudicated;

10 (3) identified as the father of the child through genetic
11 testing;

12 (4) an alleged father who has declined to submit to
13 genetic testing;

14 (5) shown by clear and convincing evidence to be the
15 father of the child;

16 (6) an acknowledged father as provided by applicable
17 state law;

18 (7) the mother of the child; or

19 (8) an individual who has been ordered to pay child
20 support in a previous proceeding and the order has not been
21 reversed or vacated.

22 (c) Upon finding, after notice and opportunity to be heard,
23 that an obligor owes a duty of support, the tribunal *shall* issue a
24 support order directed to the obligor and may issue other orders
25 pursuant to § 35305.

26 **§ 35402. Proceeding to Determine Parentage.** A tribunal of this
27 state authorized to determine parentage of a child may serve as a responding

1 tribunal in a proceeding to determine parentage of a child brought under this
2 Act, or a law or procedure substantially similar to this Act.

3 **ARTICLE 5**
4 **ENFORCEMENT OF SUPPORT ORDER WITHOUT**
5 **REGISTRATION**

- 6 § 35501. Employer’s Receipt of Income-Withholding Order of
7 Another State.
- 8 § 35502. Employer’s Compliance with Income-Withholding Order
9 of Another State.
- 10 § 35503. Employer’s Compliance with Two or More Income-
11 Withholding Orders.
- 12 § 35504. Immunity from Civil Liability.
- 13 § 35505. Penalties for Noncompliance.
- 14 § 35506. Contest by Obligor.
- 15 § 35507. Administrative Enforcement of Orders.

16 **§ 35501. Employer’s Receipt of Income-Withholding Order of**
17 **Another State.** An income-withholding order issued in another state may be
18 sent by or on behalf of the obligee, or by the support enforcement agency, to
19 the person defined as the obligor’s employer under the income-withholding
20 law of this state without first filing a petition or comparable pleading or
21 registering the order with a tribunal of this state.

22 **§ 35502. Employer’s Compliance with Income-Withholding**
23 **Order of Another State.**

24 (a) Upon receipt of an income-withholding order, the
25 obligor’s employer *shall* immediately provide a copy of the order to
26 the obligor.

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

4 (c) Except as otherwise provided in Subsection (d) and §
5 35503, the employer *shall* withhold and distribute the funds as
6 directed in the withholding order by complying with the terms of the
7 order which specify:

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

10 (2) the person designated to receive payments and the
11 address to which the payments are to be forwarded;

12 (3) medical support, whether in the form of periodic
13 cash payments, stated as a sum certain, or ordering the obligor
14 to provide health insurance coverage for the child under a
15 policy available through the obligor's employment;

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

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

21 (d) An employer *shall* comply with the laws of the
22 state of the obligor's principal place of employment for
23 withholding from income with respect to:

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

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

1 (3) the times within which the employer must
2 implement the withholding order and forward the child-
3 support payment.

4 **§ 35503. Employer's Compliance with Two or More Income-**
5 **Withholding Orders.** If an obligor's employer receives two (2) or more
6 income-withholding orders with respect to the earnings of the same obligor,
7 the employer satisfies the terms of the orders if the employer complies with
8 the law of the state of the obligor's principal place of employment to
9 establish the priorities for withholding and allocating income withheld for
10 two (2) or more child-support obligees.

11 **§ 35504. Immunity from Civil Liability.** An employer that
12 complies with an income-withholding order issued in another state in
13 accordance with this Article is not subject to civil liability to an individual or
14 agency with regard to the employer's withholding of child support from the
15 obligor's income.

16 **§ 35505. Penalties for Noncompliance.** An employer that
17 willfully fails to comply with an income-withholding order issued in another
18 state and received for enforcement is subject to the same penalties that may
19 be imposed for noncompliance with an order issued by a tribunal of this
20 state.

21 **§ 35506. Contest by Obligor.**

22 (a) An obligor may contest the validity or enforcement of an
23 income-withholding order issued in another state and received directly
24 by an employer in this state by registering the order in a tribunal of
25 this state and filing a contest to that order as provided in Article 6, or
26 otherwise contesting the order in the same manner as if the order had
27 been issued by a tribunal of this state.

- 1 (b) The obligor *shall* give notice of the contest to:
2 (1) a support enforcement agency providing services
3 to the obligee;
4 (2) each employer that has directly received an
5 income-withholding order relating to the obligor; and
6 (3) the person designated to receive payments in the
7 income-withholding order or, if no person is designated, to the
8 obligee.

9 **§ 35507. Administrative Enforcement of Orders.**

10 (a) A party or support enforcement agency seeking to
11 enforce a support order or an income-withholding order, or both,
12 issued in another state or a foreign support order may send the
13 documents required for registering the order to a support enforcement
14 agency of this state.

15 (b) Upon receipt of the documents, the support enforcement
16 agency, without initially seeking to register the order, *shall* consider
17 and, if appropriate, use any administrative procedure authorized by
18 the laws of this state to enforce a support order or an income-
19 withholding order, or both. If the obligor does not contest
20 administrative enforcement, the order need not be registered. If the
21 obligor contests the validity or administrative enforcement of the
22 order, the support enforcement agency *shall* register the order
23 pursuant to this act.

24 **ARTICLE 6**
25 **REGISTRATION, ENFORCEMENT, AND MODIFICATION OF**
26 **SUPPORT ORDER**

27 Part 1. Registration for Enforcement of Support Order.

1 Part 2. Contest of Validity or Enforcement.

2 Part 3. Registration and Modification of Child-Support Order of
3 Another State.

4 Part 4. Registration and Modification of Foreign Child-Support
5 Order.

6 **PART 1**

7 **REGISTRATION FOR ENFORCEMENT OF SUPPORT ORDER**

8 § 35601. Registration of Order for Enforcement.

9 § 35602. Procedure to Register Order for Enforcement.

10 § 35603. Effect of Registration for Enforcement.

11 § 35604. Choice of Law.

12 **§ 35601. Registration of Order for Enforcement.** A support
13 order or income-withholding order issued in another state or a foreign
14 support order may be registered in this state for enforcement.

15 **§ 35602. Procedure to Register Order for Enforcement.**

16 (a) Except as otherwise provided in § 35706, a support order
17 or income-withholding order of another state or a foreign support
18 order may be registered in this state by sending the following records
19 to the appropriate tribunal in this state:

20 (1) a letter of transmittal to the tribunal requesting
21 registration and enforcement;

22 (2) two (2) copies, including one (1) certified copy, of
23 the order to be registered, including any modification of the
24 order;

25 (3) a sworn statement by the person requesting
26 registration or a certified statement by the custodian of the
27 records showing the amount of any arrearage;

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

2 (A) the obligor's address and social security
3 number;

4 (B) the name and address of the obligor's
5 employer and any other source of income of the obligor;
6 and

7 (C) a description and the location of property of
8 the obligor in this state not exempt from execution; and

9 (5) except as otherwise provided in § 35312, the name
10 and address of the obligee and, if applicable, the person to
11 whom support payments are to be remitted.

12 (b) On receipt of a request for registration, the registering
13 tribunal *shall* cause the order to be filed as an order of a tribunal of
14 another state or a foreign support order, together with one (1) copy of
15 the documents and information, regardless of their form.

16 (c) A petition or comparable pleading seeking a remedy that
17 must be affirmatively sought under other laws of this state may be
18 filed at the same time as the request for registration or later. The
19 pleading must specify the grounds for the remedy sought.

20 (d) If two (2) or more orders are in effect, the person
21 requesting registration *shall*:

22 (1) furnish to the tribunal a copy of every support
23 order asserted to be in effect in addition to the documents
24 specified in this Section;

25 (2) specify the order alleged to be the controlling
26 order, if any; and

27 (3) specify the amount of consolidated arrears, if any.

1 (e) A request for a determination of which is the controlling
2 order may be filed separately or with a request for registration and
3 enforcement or for registration and modification. The person
4 requesting registration *shall* give notice of the request to each party
5 whose rights may be affected by the determination.

6 **§ 35603. Effect of Registration for Enforcement.**

7 (a) A support order or income-withholding order issued in
8 another state or a foreign support order is registered when the order is
9 filed in the registering tribunal of this state.

10 (b) A registered support order issued in another state or a
11 foreign country is enforceable in the same manner and is subject to the
12 same procedures as an order issued by a tribunal of this state.

13 (c) Except as otherwise provided in this Act, a tribunal of
14 this state *shall* recognize and enforce, but may not modify, a
15 registered support order if the issuing tribunal had jurisdiction.

16 **§ 35604. Choice of Law.**

17 (a) Except as otherwise provided in Subsection (d), the law
18 of the issuing state or foreign country governs:

19 (1) the nature, extent, amount, and duration of current
20 payments under a registered support order;

21 (2) the computation and payment of arrearages and
22 accrual of interest on the arrearages under the support order;
23 and

24 (3) the existence and satisfaction of other obligations
25 under the support order.

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

4 (c) A responding tribunal of this state *shall* apply the
5 procedures and remedies of this state to enforce current support and
6 collect arrears and interest due on a support order of another state or a
7 foreign country registered in this state.

8 (d) After a tribunal of this state or another state determines
9 which is the controlling order and issues an order consolidating
10 arrears, if any, a tribunal of this state *shall* prospectively apply the law
11 of the state or foreign country issuing the controlling order, including
12 its law on interest on arrears, on current and future support, and on
13 consolidated arrears.

14 **PART 2**

15 **CONTEST OF VALIDITY OR ENFORCEMENT**

16 § 35605. Notice of Registration of Order.

17 § 35606. Procedure to Contest Validity or Enforcement of
18 Registered Support Order.

19 § 35607. Contest of Registration or Enforcement.

20 § 35608. Confirmed Order.

21 **§ 35605. Notice of Registration of Order.**

22 (a) When a support order or income-withholding order
23 issued in another state or a foreign support order is registered, the
24 registering tribunal of this state *shall* notify the nonregistering party.
25 The notice must be accompanied by a copy of the registered order and
26 the documents and relevant information accompanying the order.

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

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

4 (2) that a hearing to contest the validity or
5 enforcement of the registered order must be requested within
6 twenty (20) days after notice, *unless* the registered order is
7 under § 35707;

8 (3) that failure to contest the validity or enforcement
9 of the registered order in a timely manner will result in
10 confirmation of the order and enforcement of the order and the
11 alleged arrearages; and

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

13 (c) If the registering party asserts that two (2) or more orders
14 are in effect, a notice must also:

15 (1) identify the two (2) or more orders and the order
16 alleged by the registering party to be the controlling order and
17 the consolidated arrears, if any;

18 (2) notify the nonregistering party of the right to a
19 determination of which is the controlling order;

20 (3) state that the procedures provided in Subsection
21 (b) apply to the determination of which is the controlling order;
22 and

23 (4) state that failure to contest the validity or
24 enforcement of the order alleged to be the controlling order in a
25 timely manner may result in confirmation that the order is the
26 controlling order.

1 (d) Upon registration of an income-withholding order for
2 enforcement, the support enforcement agency or the registering
3 tribunal *shall* notify the obligor's employer pursuant to the income-
4 withholding law of this state.

5 **§ 35606. Procedure to Contest Validity or Enforcement of**
6 **Registered Support Order.**

7 (a) A nonregistering party seeking to contest the validity or
8 enforcement of a registered support order in this state *shall* request a
9 hearing within the time required by § 35605. The nonregistering party
10 may seek to vacate the registration, to assert any defense to an
11 allegation of noncompliance with the registered order, or to contest
12 the remedies being sought or the amount of any alleged arrearages
13 pursuant to § 35607.

14 (b) If the nonregistering party fails to contest the validity or
15 enforcement of the registered support order in a timely manner, the
16 order is confirmed by operation of law.

17 (c) If a nonregistering party requests a hearing to contest the
18 validity or enforcement of the registered support order, the registering
19 tribunal *shall* schedule the matter for hearing and give notice to the
20 parties of the date, time, and place of the hearing.

21 **§ 35607. Contest of Registration or Enforcement.**

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

25 (1) the issuing tribunal lacked personal jurisdiction
26 over the contesting party;

27 (2) the order was obtained by fraud;

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

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

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

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

8 (7) the statute of limitation under § 35604 precludes
9 enforcement of some or all of the alleged arrearages; or

10 (8) the alleged controlling order is not the controlling
11 order.

12 (b) If a party presents evidence establishing a full or partial
13 defense under Subsection (a), a tribunal may stay enforcement of a
14 registered support order, continue the proceeding to permit production
15 of additional relevant evidence, and issue other appropriate orders. An
16 uncontested portion of the registered support order may be enforced
17 by all remedies available under the laws of this state.

18 (c) If the contesting party does not establish a defense under
19 Subsection (a) to the validity or enforcement of a registered support
20 order, the registering tribunal *shall* issue an order confirming the
21 order.

22 **§ 35608. Confirmed Order.** Confirmation of a registered support
23 order, whether by operation of law or after notice and hearing, precludes
24 further contest of the order with respect to any matter that could have been
25 asserted at the time of registration.

26 **PART 3**

1 **REGISTRATION AND MODIFICATION OF CHILD-SUPPORT**

2 **ORDER OF ANOTHER STATE**

3 § 35609. Procedure to Register Child-Support Order of Another
4 State for Modification.

5 § 35610. Effect of Registration for Modification.

6 § 35611. Modification of Child-Support Order of Another State.

7 § 35612. Recognition of Order Modified in Another State.

8 § 35613. Jurisdiction to Modify Child-Support Order of Another
9 State When Individual Parties Reside in this State.

10 § 35614. Notice to Issuing Tribunal of Modification.

11 **§ 35609. Procedure to Register Child-Support Order of**
12 **Another State for Modification.** A party or support enforcement agency
13 seeking to modify, or to modify and enforce, a child-support order issued in
14 another state *shall* register that order in this state in the same manner
15 provided in §§ 35601 through 35608 if the order has not been registered. A
16 petition for modification may be filed at the same time as a request for
17 registration, or later. The pleading must specify the grounds for
18 modification.

19 **§ 35610. Effect of Registration for Modification.** A tribunal of
20 this state may enforce a child-support order of another state registered for
21 purposes of modification, in the same manner as if the order had been issued
22 by a tribunal of this state, but the registered support order may be modified
23 only if the requirements of § 35611 or § 35613 have been met.

24 **§ 35611. Modification of Child-Support Order of Another**
25 **State.**

26 (a) If § 35613 does not apply, upon petition, a tribunal of this
27 state may modify a child-support order issued in another state which

1 is registered in this state if, after notice and hearing, the tribunal finds
2 that:

3 (1) the following requirements are met:

4 (A) neither the child, nor the obligee who is an
5 individual, nor the obligor resides in the issuing state;

6 (B) a petitioner who is a nonresident of this state
7 seeks modification; and

8 (C) the respondent is subject to the personal
9 jurisdiction of the tribunal of this state; or

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

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

20 (c) A tribunal of this state may not modify any aspect of a
21 child-support order that may not be modified under the law of the
22 issuing state, including the duration of the obligation of support. If
23 two (2) or more tribunals have issued child-support orders for the
24 same obligor and same child, the order that controls and must be so
25 recognized under § 35207 establishes the aspects of the support order
26 which are not modifiable.

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

6 (e) On the issuance of an order by a tribunal of this state
7 modifying a child-support order issued in another state, the tribunal of
8 this state becomes the tribunal having continuing, exclusive
9 jurisdiction.

10 (f) Notwithstanding Subsections (a) through (e) and §
11 35201(b), a tribunal of this state retains jurisdiction to modify an order
12 issued by a tribunal of this state if:

- 13 (1) one (1) party resides in another state; and
- 14 (2) the other party resides outside the United States.

15 **§ 35612. Recognition of Order Modified in Another State.** If a
16 child-support order issued by a tribunal of this state is modified by a tribunal
17 of another state which assumed jurisdiction pursuant to the Uniform
18 Interstate Family Support Act, a tribunal of this state:

19 (a) may enforce its order that was modified only as to arrears
20 and interest accruing before the modification;

21 (b) may provide appropriate relief for violations of its order
22 which occurred before the effective date of the modification; and

23 (c) *shall* recognize the modifying order of the other state,
24 upon registration, for the purpose of enforcement.

25 **§ 35613. Jurisdiction to Modify Child-Support Order of**
26 **Another State When Individual Parties Reside in this State.**

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

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

9 **§ 35614. Notice to Issuing Tribunal of Modification.** Within
10 thirty (30) days after issuance of a modified child-support order, the party
11 obtaining the modification *shall* file a certified copy of the order with the
12 issuing tribunal that had continuing, exclusive jurisdiction over the earlier
13 order, and in each tribunal in which the party knows the earlier order has
14 been registered. A party who obtains the order and fails to file a certified
15 copy is subject to appropriate sanctions by a tribunal in which the issue of
16 failure to file arises. The failure to file does not affect the validity or
17 enforceability of the modified order of the new tribunal having continuing,
18 exclusive jurisdiction.

19 **PART 4**

20 **REGISTRATION AND MODIFICATION OF FOREIGN CHILD-** 21 **SUPPORT ORDER**

22 § 35615. Jurisdiction to Modify Child-Support Order of Foreign
23 Country.

24 § 35616. Procedure to Register Child-Support Order of Foreign
25 Country for Modification.

26 **§ 35615. Jurisdiction to Modify Child-Support Order of**
27 **Foreign Country.**

1 (a) Except as otherwise provided in § 35711, if a foreign
2 country lacks or refuses to exercise jurisdiction to modify its child-
3 support order pursuant to its laws, a tribunal of this state may assume
4 jurisdiction to modify the child-support order and bind all individuals
5 subject to the personal jurisdiction of the tribunal, whether the consent
6 to modification of a child-support order otherwise required of the
7 individual pursuant to § 35611 has been given, or whether the
8 individual seeking modification is a resident of this state or of the
9 foreign country.

10 (b) An order issued by a tribunal of this state modifying a
11 foreign child-support order pursuant to this Section is the controlling
12 order.

13 **§ 35616. Procedure to Register Child-Support Order of**
14 **Foreign Country for Modification.** A party or support enforcement
15 agency seeking to modify, or to modify and enforce, a foreign child-support
16 order not under the Convention may register that order in this state under §§
17 35601 through 35608, if the order has not been registered. A petition for
18 modification may be filed at the same time as a request for registration, or at
19 another time. The petition must specify the grounds for modification.

20 **ARTICLE 7**

21 **SUPPORT PROCEEDING UNDER CONVENTION**

22 § 35701. Definitions.

23 § 35702. Applicability.

24 § 35703. Relationship of Child Support Enforcement Division to
25 United States Central Authority.

26 § 35704. Initiation by Child Support Enforcement Division of
27 Support Proceeding under Convention.

- 1 § 35705. Direct Request.
- 2 § 35706. Registration of Convention Support Order.
- 3 § 35707. Contest of Registered Convention Support Order.
- 4 § 35708. Recognition and Enforcement of Registered Convention
5 Support Order.
- 6 § 35709. Partial Enforcement.
- 7 § 35710. Foreign Support Agreement.
- 8 § 35711. Modification of Convention Child-Support Order.
- 9 § 35712. Personal Information; Limit on Use.
- 10 § 35713. Record in Original Language; English Translation.
- 11 **§ 35701. Definitions.** In this Article:
- 12 (a) *Application* means a request under the Convention by an
13 obligee or obligor, or on behalf of a child, made through a central
14 authority for assistance from another central authority.
- 15 (b) *Central authority* means the entity designated by the
16 United States or a foreign country described in § 35102(5)(D) to
17 perform the functions specified in the Convention.
- 18 (c) *Convention support order* means a support order of a
19 tribunal of a foreign country described in § 35102(5)(D).
- 20 (d) *Direct request* means a petition filed by an individual in a
21 tribunal of this state in a proceeding involving an obligee, obligor, or
22 child residing outside the United States.
- 23 (e) *Foreign central authority* means the entity designated by
24 a foreign country described in § 35102(5)(D) to perform the functions
25 specified in the Convention.
- 26 (f) *Foreign support agreement:*
- 27 (1) means an agreement for support in a record that:

1 (A) is enforceable as a support order in the
2 country of origin;

3 (B) has been:

4 (i) formally drawn up or registered as an
5 authentic instrument by a foreign tribunal; or

6 (ii) authenticated by, or concluded,
7 registered, or filed with a foreign tribunal; and

8 (C) may be reviewed and modified by a foreign
9 tribunal; and

10 (2) includes a maintenance arrangement or authentic
11 instrument under the Convention.

12 (g) *United States central authority* means the Secretary of
13 the United States Department of Health and Human Services.

14 **§ 35702. Applicability.** This Article applies only to a support
15 proceeding under the Convention. In such a proceeding, if a provision of this
16 Article is inconsistent with Articles 1 through 6, this Article controls.

17 **§ 35703. Relationship of Child Support Enforcement Division**
18 **to United States Central Authority.** The Child Support Enforcement
19 Division of this state is recognized as the agency designated by the United
20 States central authority to perform specific functions under the Convention.

21 **§ 35704. Initiation by Child Support Enforcement Division of**
22 **Support Proceeding under Convention.**

23 (a) In a support proceeding under this Article, the Child
24 Support Enforcement Division of this state *shall*:

25 (1) transmit and receive applications; and

26 (2) initiate or facilitate the institution of a proceeding
27 regarding an application in a tribunal of this state.

1 (b) The following support proceedings are available to an
2 obligee under the Convention:

3 (1) recognition or recognition and enforcement of a
4 foreign support order;

5 (2) enforcement of a support order issued or
6 recognized in this state;

7 (3) establishment of a support order if there is no
8 existing order, including, if necessary, determination of
9 parentage of a child;

10 (4) establishment of a support order if recognition of a
11 foreign support order is refused under § 35708(b)(2), (4), or (9);

12 (5) modification of a support order of a tribunal of this
13 state; and

14 (6) modification of a support order of a tribunal of
15 another state or a foreign country.

16 (c) The following support proceedings are available under
17 the Convention to an obligor against which there is an existing
18 support order:

19 (1) recognition of an order suspending or limiting
20 enforcement of an existing support order of a tribunal of this
21 state;

22 (2) modification of a support order of a tribunal of this
23 state; and

24 (3) modification of a support order of a tribunal of
25 another state or a foreign country.

1 (d) A tribunal of this state may not require security, bond, or
2 deposit, however described, to guarantee the payment of costs and
3 expenses in proceedings under the Convention.

4 **§ 35705. Direct Request.**

5 (a) A petitioner may file a direct request seeking
6 establishment or modification of a support order or determination of
7 parentage of a child. In the proceeding, the law of this state applies.

8 (b) A petitioner may file a direct request seeking recognition
9 and enforcement of a support order or support agreement. In the
10 proceeding, §§ 35706 through 35713 apply.

11 (c) In a direct request for recognition and enforcement of a
12 Convention support order or foreign support agreement:

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

15 (2) an obligee or obligor that in the issuing country
16 has benefited from free legal assistance is entitled to benefit, at
17 least to the same extent, from any free legal assistance provided
18 for by the laws of this state under the same circumstances.

19 (d) A petitioner filing a direct request is not entitled to
20 assistance from the Child Support Enforcement Division.

21 (e) This Article does not prevent the application of laws of
22 this state that provide simplified, more expeditious rules regarding a
23 direct request for recognition and enforcement of a foreign support
24 order or foreign support agreement.

25 **§ 35706. Registration of Convention Support Order.**

26 (a) Except as otherwise provided in this Article, a party who
27 is an individual or a support enforcement agency seeking recognition

1 of a Convention support order *shall* register the order in this state as
2 provided in Article 6.

3 (b) Notwithstanding §§ 35311 and 35602(a), a request for
4 registration of a Convention support order must be accompanied by:

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

9 (2) a record stating that the support order is
10 enforceable in the issuing country;

11 (3) if the respondent did not appear and was not
12 represented in the proceedings in the issuing country, a record
13 attesting, as appropriate, either that the respondent had proper
14 notice of the proceedings and an opportunity to be heard or that
15 the respondent had proper notice of the support order and an
16 opportunity to be heard in a challenge or appeal on fact or law
17 before a tribunal;

18 (4) a record showing the amount of arrears, if any, and
19 the date the amount was calculated;

20 (5) a record showing a requirement for automatic
21 adjustment of the amount of support, if any, and the
22 information necessary to make the appropriate calculations; and

23 (6) if necessary, a record showing the extent to which
24 the applicant received free legal assistance in the issuing
25 country.

26 (c) A request for registration of a Convention support order
27 may seek recognition and partial enforcement of the order.

1 (d) A tribunal of this state may vacate the registration of a
2 Convention support order without the filing of a contest under §
3 35707 only if, acting on its own motion, the tribunal finds that
4 recognition and enforcement of the order would be manifestly
5 incompatible with public policy.

6 (e) The tribunal *shall* promptly notify the parties of the
7 registration or the order vacating the registration of a Convention
8 support order.

9 **§ 35707. Contest of Registered Convention Support Order.**

10 (a) Except as otherwise provided in this Article, §§ 35605
11 through 35608 apply to a contest of a registered Convention support
12 order.

13 (b) A party contesting a registered Convention support order
14 *shall* file a contest not later than thirty (30) days after notice of the
15 registration, but if the contesting party does not reside in the United
16 States, the contest must be filed not later than sixty (60) days after
17 notice of the registration.

18 (c) If the nonregistering party fails to contest the registered
19 Convention support order by the time specified in Subsection (b), the
20 order is enforceable.

21 (d) A contest of a registered Convention support order may
22 be based only on grounds set forth in § 35708. The contesting party
23 bears the burden of proof.

24 (e) In a contest of a registered Convention support order, a
25 tribunal of this state:

26 (1) is bound by the findings of fact on which the
27 foreign tribunal based its jurisdiction; and

1 (2) may not review the merits of the order.

2 (f) A tribunal of this state deciding a contest of a registered
3 Convention support order *shall* promptly notify the parties of its
4 decision.

5 (g) A challenge or appeal, if any, does not stay the
6 enforcement of a Convention support order *unless* there are
7 exceptional circumstances.

8 **§ 35708. Recognition and Enforcement of Registered**
9 **Convention Support Order.**

10 (a) Except as otherwise provided in Subsection (b), a
11 tribunal of this state *shall* recognize and enforce a registered
12 Convention support order.

13 (b) The following grounds are the only grounds on which a
14 tribunal of this state may refuse recognition and enforcement of a
15 registered Convention support order:

16 (1) recognition and enforcement of the order is
17 manifestly incompatible with public policy, including the
18 failure of the issuing tribunal to observe minimum standards of
19 due process, which include notice and an opportunity to be
20 heard;

21 (2) the issuing tribunal lacked personal jurisdiction
22 consistent with § 35201;

23 (3) the order is not enforceable in the issuing country;

24 (4) the order was obtained by fraud in connection with
25 a matter of procedure;

26 (5) a record transmitted in accordance with § 35706
27 lacks authenticity or integrity;

1 (6) a proceeding between the same parties and having
2 the same purpose is pending before a tribunal of this state and
3 that proceeding was the first to be filed;

4 (7) the order is incompatible with a more recent
5 support order involving the same parties and having the same
6 purpose if the more recent support order is entitled to
7 recognition and enforcement under this Act in this state;

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

10 (9) in a case in which the respondent neither appeared
11 nor was represented in the proceeding in the issuing foreign
12 country:

13 (A) if the law of that country provides for prior
14 notice of proceedings, the respondent did not have proper
15 notice of the proceedings and an opportunity to be heard;
16 or

17 (B) if the law of that country does not provide
18 for prior notice of the proceedings, the respondent did not
19 have proper notice of the order and an opportunity to be
20 heard in a challenge or appeal on fact or law before a
21 tribunal; or

22 (10) the order was made in violation of § 35711.

23 (c) If a tribunal of this state does not recognize a Convention
24 support order under Subsections (b)(2), (4), or (9):

25 (1) the tribunal may not dismiss the proceeding
26 without allowing a reasonable time for a party to request the
27 establishment of a new Convention support order; and

1 (2) the Child Support Enforcement Division *shall* take
2 all appropriate measures to request a child-support order for the
3 obligee if the application for recognition and enforcement was
4 received under § 35704.

5 **§ 35709. Partial Enforcement.** If a tribunal of this state does not
6 recognize and enforce a Convention support order in its entirety, it *shall*
7 enforce any severable part of the order. An application or direct request may
8 seek recognition and partial enforcement of a Convention support order.

9 **§ 35710. Foreign Support Agreement.**

10 (a) Except as otherwise provided in Subsections (c) and (d),
11 a tribunal of this state *shall* recognize and enforce a foreign support
12 agreement registered in this state.

13 (b) An application or direct request for recognition and
14 enforcement of a foreign support agreement must be accompanied by:

15 (1) a complete text of the foreign support agreement;

16 and

17 (2) a record stating that the foreign support agreement
18 is enforceable as an order of support in the issuing country.

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

23 (d) In a contest of a foreign support agreement, a tribunal of
24 this state may refuse recognition and enforcement of the agreement if
25 it finds:

26 (1) recognition and enforcement of the agreement is
27 manifestly incompatible with public policy;

1 (2) the agreement was obtained by fraud or
2 falsification;

3 (3) the agreement is incompatible with a support order
4 involving the same parties and having the same purpose in this
5 state, another state, or a foreign country if the support order is
6 entitled to recognition and enforcement under this Act in this
7 state; or

8 (4) the record submitted under Subsection (b) lacks
9 authenticity or integrity.

10 (e) A proceeding for recognition and enforcement of a
11 foreign support agreement must be suspended during the pendency of
12 a challenge to or appeal of the agreement before a tribunal of another
13 state or a foreign country.

14 **§ 35711. Modification of Convention Child-Support Order.**

15 (a) A tribunal of this state may not modify a Convention
16 child-support order if the obligee remains a resident of the foreign
17 country where the support order was issued *unless*:

18 (1) the obligee submits to the jurisdiction of a tribunal
19 of this state, either expressly or by defending on the merits of
20 the case without objecting to the jurisdiction at the first
21 available opportunity; or

22 (2) the foreign tribunal lacks or refuses to exercise
23 jurisdiction to modify its support order or issue a new support
24 order.

25 (b) If a tribunal of this state does not modify a Convention
26 child-support order because the order is not recognized in this state, §
27 35708(c) applies.

1 surrender is demanded was not in the demanding state when the crime
2 was allegedly committed and has not fled therefrom.

3 **§ 35802. Conditions of Rendition.**

4 (a) Before making a demand that the governor of another
5 state surrender an individual charged criminally in this state with
6 having failed to provide for the support of an obligee, the governor of
7 this state may require a prosecutor of this state to demonstrate that at
8 least sixty (60) days previously the obligee had initiated proceedings
9 for support pursuant to this Act or that the proceeding would be of no
10 avail.

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

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

27 **ARTICLE 9**

