

## LEGISLATIVE BILL 148

Approved by the Governor April 30, 2003

Introduced by Landis, 46; Friend, 10; Redfield, 12

AN ACT relating to domestic relations; to amend sections 42-701, 42-702, 42-704 to 42-706, 42-709 to 42-714, 42-716 to 42-721, 42-723 to 42-727, 42-729, 42-730, 42-732 to 42-734.02, 42-734.05, 42-735, 42-737 to 42-740, 42-742, 42-745 to 42-747.01, 42-748 to 42-751, and 42-931, Reissue Revised Statutes of Nebraska, and sections 42-351 and 43-104, Revised Statutes Supplement, 2002; to adopt the Uniform Child Custody Jurisdiction and Enforcement Act; to adopt uniform changes to the Uniform Interstate Family Support Act; to adopt the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act; to harmonize provisions; to repeal the Nebraska Child Custody Jurisdiction Act; to provide a duty for the Revisor of Statutes; to provide an operative date; to provide severability; to repeal the original sections; and to outright repeal sections 43-1201 to 43-1225, Reissue Revised Statutes of Nebraska.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 41 of this act shall be known and may be cited as the Uniform Child Custody Jurisdiction and Enforcement Act.

Sec. 2. In the Uniform Child Custody Jurisdiction and Enforcement Act:

(1) Abandoned means left without provision for reasonable and necessary care or supervision.

(2) Child means an individual who has not attained eighteen years of age.

(3) Child custody determination means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.

(4) Child custody proceeding means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under sections 23 to 39 of this act.

(5) Commencement means the filing of the first pleading in a proceeding.

(6) Court means an entity authorized under the law of a state to establish, enforce, or modify a child custody determination.

(7) Home state means the state in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child custody proceeding. In the case of a child less than six months of age, the term means the state in which the child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

(8) Initial determination means the first child custody determination concerning a particular child.

(9) Issuing court means the court that makes a child custody determination for which enforcement is sought under the Uniform Child Custody Jurisdiction and Enforcement Act.

(10) Issuing state means the state in which a child custody determination is made.

(11) Modification means a child custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.

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

(13) Person acting as a parent means a person, other than a parent, who:

(A) has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence,

within one year immediately before the commencement of a child custody proceeding; and

(B) has been awarded legal custody by a court or claims a right to legal custody under the law of this state.

(14) Physical custody means the physical care and supervision of a child.

(15) State means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(16) Tribe means an Indian tribe or band, or Alaskan Native village, which is recognized by federal law or formally acknowledged by a state.

(17) Warrant means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

Sec. 3. The Uniform Child Custody Jurisdiction and Enforcement Act does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

Sec. 4. (a) A child custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. 1901 et seq., is not subject to the Uniform Child Custody Jurisdiction and Enforcement Act to the extent that it is governed by the Indian Child Welfare Act.

(b) A court of this state shall treat a tribe as if it were a state of the United States for the purpose of applying sections 1 to 22 of this act.

(c) A child custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of the Uniform Child Custody Jurisdiction and Enforcement Act shall be recognized and enforced under sections 23 to 39 of this act.

Sec. 5. (a) A court of this state shall treat a foreign country as if it were a state of the United States for the purpose of applying sections 1 to 22 of this act.

(b) Except as otherwise provided in subsection (c) of this section, a child custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdictional standards of the Uniform Child Custody Jurisdiction and Enforcement Act shall be recognized and enforced under sections 23 to 39 of this act.

(c) A court of this state need not apply the act if the child custody law of a foreign country violates fundamental principles of human rights.

Sec. 6. A child custody determination made by a court of this state that had jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act binds all persons who have been served in accordance with the laws of this state or notified in accordance with section 8 of this act or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

Sec. 7. If a question of existence or exercise of jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act is raised in a child custody proceeding, the question, upon request of a party, shall be given priority on the calendar and handled expeditiously.

Sec. 8. (a) Notice required for the exercise of jurisdiction when a person is outside this state may be given in a manner prescribed by the law of this state for service of process or by the law of the state in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.

(b) Proof of service may be made in the manner prescribed by the law of this state or by the law of the state in which the service is made.

(c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

Sec. 9. (a) A party to a child custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child custody determination, is not subject to personal jurisdiction in this state for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.

(b) A person who is subject to personal jurisdiction in this state on a basis other than physical presence is not immune from service of process in this state. A party present in this state who is subject to the jurisdiction of another state is not immune from service of process allowable under the laws of that state.

(c) The immunity granted by subsection (a) of this section does not extend to civil litigation based on acts unrelated to the participation in a proceeding under the Uniform Child Custody Jurisdiction and Enforcement Act

committed by an individual while present in this state.

Sec. 10. (a) A court of this state may communicate with a court in another state concerning a proceeding arising under the Uniform Child Custody Jurisdiction and Enforcement Act.

(b) The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they shall be given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

(c) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.

(d) Except as otherwise provided in subsection (c) of this section, a record shall be made of a communication under this section. The parties shall be informed promptly of the communication and granted access to the record.

(e) For the purposes of this section, record means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 11. (a) In addition to other procedures available to a party, a party to a child custody proceeding may offer testimony of witnesses who are located in another state, including testimony of the parties and the child, by deposition or other means allowable in this state for testimony taken in another state. The court on its own motion may order that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony is taken.

(b) A court of this state may permit an individual residing in another state to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that state. A court of this state shall cooperate with courts of other states in designating an appropriate location for the deposition or testimony.

(c) Documentary evidence transmitted from another state to a court of this state by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

Sec. 12. (a) A court of this state may request the appropriate court of another state to:

- (1) hold an evidentiary hearing;
- (2) order a person to produce or give evidence pursuant to procedures of that state;
- (3) order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;
- (4) forward to the court of this state a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and
- (5) order a party to a child custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.

(b) Upon request of a court of another state, a court of this state may hold a hearing or enter an order described in subsection (a) of this section.

(c) Travel and other necessary and reasonable expenses incurred under subsections (a) and (b) of this section may be assessed against the parties according to the law of this state.

(d) A court of this state shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child custody proceeding until the child attains eighteen years of age. Upon appropriate request by a court or law enforcement official of another state, the court shall forward a certified copy of those records.

Sec. 13. (a) Except as otherwise provided in section 16 of this act, a court of this state has jurisdiction to make an initial child custody determination only if:

- (1) this state is the home state of the child on the date of the commencement of the proceeding or was the home state of the child within six months before the commencement of the proceeding and the child is absent from this state but a parent or person acting as a parent continues to live in this state;
- (2) a court of another state does not have jurisdiction under subdivision (a)(1) of this section, or a court of the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under section 19 or 20 of this act, and:

(A) the child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this

state other than mere physical presence; and

(B) substantial evidence is available in this state concerning the child's care, protection, training, and personal relationships;

(3) all courts having jurisdiction under subdivision (a)(1) or (a)(2) of this section have declined to exercise jurisdiction on the ground that a court of this state is the more appropriate forum to determine the custody of the child under section 19 or 20 of this act; or

(4) no court of any other state would have jurisdiction under the criteria specified in subdivision (a)(1), (a)(2), or (a)(3) of this section.

(b) Subsection (a) of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this state.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.

Sec. 14. (a) Except as otherwise provided in section 16 of this act, a court of this state which has made a child custody determination consistent with section 13 or 15 of this act has exclusive, continuing jurisdiction over the determination until:

(1) a court of this state determines that neither the child, nor the child and one parent, nor the child and a person acting as a parent have a significant connection with this state and that substantial evidence is no longer available in this state concerning the child's care, protection, training, and personal relationships; or

(2) a court of this state or a court of another state determines that the child, the child's parents, and any person acting as a parent do not presently reside in this state.

(b) A court of this state which has made a child custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under section 13 of this act.

Sec. 15. Except as otherwise provided in section 16 of this act, a court of this state may not modify a child custody determination made by a court of another state unless a court of this state has jurisdiction to make an initial determination under subdivision (a)(1) or (a)(2) of section 13 of this act and:

(1) the court of the other state determines it no longer has exclusive, continuing jurisdiction under section 14 of this act or that a court of this state would be a more convenient forum under section 19 of this act; or

(2) a court of this state or a court of the other state determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other state.

Sec. 16. (a) A court of this state has temporary emergency jurisdiction if the child is present in this state and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.

(b) If there is no previous child custody determination that is entitled to be enforced under the Uniform Child Custody Jurisdiction and Enforcement Act and a child custody proceeding has not been commenced in a court of a state having jurisdiction under sections 13 to 15 of this act, a child custody determination made under this section remains in effect until an order is obtained from a court of a state having jurisdiction under such sections. If a child custody proceeding has not been or is not commenced in a court of a state having jurisdiction under such sections, a child custody determination made under this section becomes a final determination, if it so provides, and this state becomes the home state of the child.

(c) If there is a previous child custody determination that is entitled to be enforced under the act, or a child custody proceeding has been commenced in a court of a state having jurisdiction under sections 13 to 15 of this act, any order issued by a court of this state under this section shall specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the state having jurisdiction under such sections. The order issued in this state remains in effect until an order is obtained from the other state within the period specified or the period expires.

(d) A court of this state which has been asked to make a child custody determination under this section, upon being informed that a child custody proceeding has been commenced in, or a child custody determination has been made by, a court of a state having jurisdiction under sections 13 to 15 of this act, shall immediately communicate with the other court. A court of this state which is exercising jurisdiction pursuant to such sections, upon being informed that a child custody proceeding has been commenced in, or a

child custody determination has been made by, a court of another state under a statute similar to this section shall immediately communicate with the court of that state to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

Sec. 17. (a) Before a child custody determination is made under the Uniform Child Custody Jurisdiction and Enforcement Act, notice and an opportunity to be heard in accordance with the standards of section 8 of this act shall be given to all persons entitled to notice under the law of this state as in child custody proceedings between residents of this state, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.

(b) The act does not govern the enforceability of a child custody determination made without notice or an opportunity to be heard.

(c) The obligation to join a party and the right to intervene as a party in a child custody proceeding under the act are governed by the law of this state as in child custody proceedings between residents of this state.

Sec. 18. (a) Except as otherwise provided in section 16 of this act, a court of this state may not exercise its jurisdiction under sections 13 to 22 of this act if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another state having jurisdiction substantially in conformity with the Uniform Child Custody Jurisdiction and Enforcement Act, unless the proceeding has been terminated or is stayed by the court of the other state because a court of this state is a more convenient forum under section 19 of this act.

(b) Except as otherwise provided in section 16 of this act, a court of this state, before hearing a child custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to section 21 of this act. If the court determines that a child custody proceeding has been commenced in a court in another state having jurisdiction substantially in accordance with the act, the court of this state shall stay its proceeding and communicate with the court of the other state. If the court of the state having jurisdiction substantially in accordance with the act does not determine that the court of this state is a more appropriate forum, the court of this state shall dismiss the proceeding.

(c) In a proceeding to modify a child custody determination, a court of this state shall determine whether a proceeding to enforce the determination has been commenced in another state. If a proceeding to enforce a child custody determination has been commenced in another state, the court may:

(1) stay the proceeding for modification pending the entry of an order of a court of the other state enforcing, staying, denying, or dismissing the proceeding for enforcement;

(2) enjoin the parties from continuing with the proceeding for enforcement; or

(3) proceed with the modification under conditions it considers appropriate.

Sec. 19. (a) A court of this state which has jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act to make a child custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or the request of another court.

(b) Before determining whether it is an inconvenient forum, a court of this state shall consider whether it is appropriate for a court of another state to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:

(1) whether domestic violence has occurred and is likely to continue in the future and which state could best protect the parties and the child;

(2) the length of time the child has resided outside this state;

(3) the distance between the court in this state and the court in the state that would assume jurisdiction;

(4) the relative financial circumstances of the parties;

(5) any agreement of the parties as to which state should assume jurisdiction;

(6) the nature and location of the evidence required to resolve the pending litigation, including testimony of the child;

(7) the ability of the court of each state to decide the issue expeditiously and the procedures necessary to present the evidence; and

(8) the familiarity of the court of each state with the facts and issues in the pending litigation.

(c) If a court of this state determines that it is an inconvenient forum and that a court of another state is a more appropriate forum, it shall stay the proceedings upon condition that a child custody proceeding be promptly commenced in another designated state and may impose any other condition the court considers just and proper.

(d) A court of this state may decline to exercise its jurisdiction under the act if a child custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

Sec. 20. (a) Except as otherwise provided in section 16 of this act or by other law of this state, if a court of this state has jurisdiction under the Uniform Child Custody Jurisdiction and Enforcement Act because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:

(1) the parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;

(2) a court of the state otherwise having jurisdiction under sections 13 to 15 of this act determines that this state is a more appropriate forum under section 19 of this act; or

(3) no court of any other state would have jurisdiction under the criteria specified in sections 13 to 15 of this act.

(b) If a court of this state declines to exercise its jurisdiction pursuant to subsection (a) of this section, it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child custody proceeding is commenced in a court having jurisdiction under sections 13 to 15 of this act.

(c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (a) of this section, it may assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against this state unless authorized by law other than the act.

Sec. 21. (a) Subject to local law providing for the confidentiality of procedures, addresses, and other identifying information, in a child custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit shall state whether the party:

(1) has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child custody determination, if any;

(2) knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions, and, if so, identify the court, the case number, and the nature of the proceeding; and

(3) knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.

(b) If the information required by subsection (a) of this section is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.

(c) If the declaration as to any of the items described in subdivisions (a) (1) through (a) (3) of this section is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.

(d) Each party has a continuing duty to inform the court of any proceeding in this or any other state that could affect the current proceeding.

(e) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information shall be sealed and may

not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.

Sec. 22. (a) In a child custody proceeding in this state, the court may order a party to the proceeding who is in this state to appear before the court in person with or without the child. The court may order any person who is in this state and who has physical custody or control of the child to appear in person with the child.

(b) If a party to a child custody proceeding whose presence is desired by the court is outside this state, the court may order that a notice given pursuant to section 8 of this act include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.

(c) The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.

(d) If a party to a child custody proceeding who is outside this state is directed to appear under subsection (b) of this section or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

Sec. 23. In sections 23 to 39 of this act:

(1) Petitioner means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

(2) Respondent means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child custody determination.

Sec. 24. Under sections 23 to 39 of this act a court of this state may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child custody determination.

Sec. 25. (a) A court of this state shall recognize and enforce a child custody determination of a court of another state if the latter court exercised jurisdiction in substantial conformity with the Uniform Child Custody Jurisdiction and Enforcement Act or the determination was made under factual circumstances meeting the jurisdictional standards of the act and the determination has not been modified in accordance with the act.

(b) A court of this state may utilize any remedy available under other law of this state to enforce a child custody determination made by a court of another state. The remedies provided in sections 23 to 39 of this act are cumulative and do not affect the availability of other remedies to enforce a child custody determination.

Sec. 26. (a) A court of this state which does not have jurisdiction to modify a child custody determination may issue a temporary order enforcing:

(1) a visitation schedule made by a court of another state; or

(2) the visitation provisions of a child custody determination of another state that does not provide for a specific visitation schedule.

(b) If a court of this state makes an order under subdivision (a) (2) of this section, it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in sections 13 to 22 of this act. The order remains in effect until an order is obtained from the other court or the period expires.

Sec. 27. (a) A child custody determination issued by a court of another state may be registered in this state, with or without a simultaneous request for enforcement, by sending to the district court in this state:

(1) a letter or other document requesting registration;

(2) two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and

(3) except as otherwise provided in section 21 of this act, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child custody determination sought to be registered.

(b) On receipt of the documents required by subsection (a) of this section, the registering court shall:

(1) cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and

(2) serve notice upon the persons named pursuant to subdivision (a) (3) of this section and provide them with an opportunity to contest the registration in accordance with this section.

(c) The notice required by subdivision (b) (2) of this section shall state that:

(1) a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this state;

(2) a hearing to contest the validity of the registered determination shall be requested within twenty days after service of notice; and

(3) failure to contest the registration will result in confirmation of the child custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.

(d) A person seeking to contest the validity of a registered order shall request a hearing within twenty days after service of the notice. At that hearing, the court shall confirm the registered order unless the person contesting registration establishes that:

(1) the issuing court did not have jurisdiction under sections 13 to 22 of this act;

(2) the child custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under such sections; or

(3) the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of section 8 of this act, in the proceedings before the court that issued the order for which registration is sought.

(e) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served shall be notified of the confirmation.

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

Sec. 28. (a) A court of this state may grant any relief normally available under the law of this state to enforce a registered child custody determination made by a court of another state.

(b) A court of this state shall recognize and enforce, but may not modify, except in accordance with sections 13 to 22 of this act, a registered child custody determination of a court of another state.

Sec. 29. If a proceeding for enforcement under sections 23 to 39 of this act is commenced in a court of this state and the court determines that a proceeding to modify the determination is pending in a court of another state having jurisdiction to modify the determination under sections 13 to 22 of this act, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

Sec. 30. (a) A petition under sections 23 to 39 of this act shall be verified. Certified copies of all orders sought to be enforced and of any order confirming registration shall be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.

(b) A petition for enforcement of a child custody determination shall state:

(1) whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;

(2) whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision shall be enforced under the Uniform Child Custody Jurisdiction and Enforcement Act and, if so, identify the court, the case number, and the nature of the proceeding;

(3) whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding;

(4) the present physical address of the child and the respondent, if known;

(5) whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from law enforcement officials and, if so, the relief sought; and

(6) if the child custody determination has been registered and



confirmed under section 27 of this act, the date and place of registration.

(c) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing shall be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.

(d) An order issued under subsection (c) of this section shall state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under section 34 of this act and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:

(1) the child custody determination has not been registered and confirmed under section 27 of this act and that:

(A) the issuing court did not have jurisdiction under sections 13 to 22 of this act;

(B) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under such sections;

(C) the respondent was entitled to notice, but notice was not given in accordance with the standards of section 8 of this act, in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under section 27 of this act but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under sections 13 to 22 of this act.

Sec. 31. Except as otherwise provided in section 33 of this act, the petition and order shall be served, by any method authorized by the law of this state, upon the respondent and any person who has physical custody of the child.

Sec. 32. (a) Unless the court issues a temporary emergency order pursuant to section 16 of this act, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:

(1) the child custody determination has not been registered and confirmed under section 27 of this act and that:

(A) the issuing court did not have jurisdiction under sections 13 to 22 of this act;

(B) the child custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under such sections; or

(C) the respondent was entitled to notice, but notice was not given in accordance with the standards of section 8 of this act, in the proceedings before the court that issued the order for which enforcement is sought; or

(2) the child custody determination for which enforcement is sought was registered and confirmed under section 27 of this act but has been vacated, stayed, or modified by a court of a state having jurisdiction to do so under sections 13 to 22 of this act.

(b) The court shall award the fees, costs, and expenses authorized under section 34 of this act and may grant additional relief, including a request for the assistance of law enforcement officials, and set a further hearing to determine whether additional relief is appropriate.

(c) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.

(d) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under sections 23 to 39 of this act.

Sec. 33. (a) Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or be removed from this state.

(b) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this state, it may issue a warrant to take physical custody of the child. The petition shall be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event,

the court shall hold the hearing on the first judicial day possible. The application for the warrant shall include the statements required by subsection (b) of section 30 of this act.

(c) A warrant to take physical custody of a child shall:

(1) recite the facts upon which a conclusion of imminent serious physical harm or removal from the state is based;

(2) direct law enforcement officers to take physical custody of the child immediately; and

(3) provide for the placement of the child pending final relief.

(d) The respondent shall be served with the petition, warrant, and order immediately after the child is taken into physical custody.

(e) A warrant to take physical custody of a child is enforceable throughout this state. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the court may authorize law enforcement officers to make a forcible entry at any hour.

(f) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

Sec. 34. (a) The court shall award the prevailing party, including a state, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care, during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.

(b) The court may not assess fees, costs, or expenses against a state unless authorized by law other than the Uniform Child Custody Jurisdiction and Enforcement Act.

Sec. 35. A court of this state shall accord full faith and credit to an order issued by another state and consistent with the Uniform Child Custody Jurisdiction and Enforcement Act which enforces a child custody determination by a court of another state unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under sections 13 to 22 of this act.

Sec. 36. An appeal may be taken from a final order in a proceeding under sections 23 to 39 of this act in accordance with expedited appellate procedures in other civil cases. Unless the court enters a temporary emergency order under section 16 of this act, the enforcing court may not stay an order enforcing a child custody determination pending appeal.

Sec. 37. (a) In a case arising under the Uniform Child Custody Jurisdiction and Enforcement Act or involving the Hague Convention on the Civil Aspects of International Child Abduction, a county attorney or the Attorney General may take any lawful action, including resort to a proceeding under sections 23 to 39 of this act or any other available civil proceeding, to locate a child, obtain the return of a child, or enforce a child custody determination if there is:

(1) an existing child custody determination;

(2) a request to do so from a court in a pending child custody proceeding;

(3) a reasonable belief that a criminal statute has been violated;

or

(4) a reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.

(b) A county attorney or the Attorney General acting under this section acts on behalf of the court and may not represent any party.

Sec. 38. At the request of a county attorney or the Attorney General acting under section 37 of this act, a law enforcement officer may take any lawful action reasonably necessary to locate a child or a party and assist a county attorney or the Attorney General with responsibilities under such section.

Sec. 39. If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by a county attorney or the Attorney General and law enforcement officers under section 37 or 38 of this act.

Sec. 40. In applying and construing the Uniform Child Custody Jurisdiction and Enforcement Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 41. A motion or other request for relief made in a child custody proceeding or to enforce a child custody determination which was

commenced before the operative date of this act is governed by the law in effect at the time the motion or other request was made.

Sec. 42. Section 42-351, Revised Statutes Supplement, 2002, is amended to read:

42-351. (1) In proceedings under sections 42-347 to 42-381, the court shall have jurisdiction to inquire into such matters, make such investigations, and render such judgments and make such orders, both temporary and final, as are appropriate concerning the status of the marriage, the custody and support of minor children, the support of either party, the settlement of the property rights of the parties, and the award of costs and attorney's fees. The court shall determine jurisdiction for child custody proceedings under the Uniform Child Custody Jurisdiction and Enforcement Act.

(2) When final orders relating to proceedings governed by sections 42-347 to 42-381 are on appeal and such appeal is pending, the court that issued such orders shall retain jurisdiction to provide for such orders regarding custody, visitation, or support, orders shown to be necessary to allow the use of property or to prevent the irreparable harm to or loss of property during the pendency of such appeal, or other appropriate orders in aid of the appeal process. Such orders shall not be construed to prejudice any party on appeal.

Sec. 43. Section 42-701, Reissue Revised Statutes of Nebraska, is amended to read:

42-701. Sections 42-701 to 42-751 and sections 53, 54, and 85 of this act shall be known and may be cited as the Uniform Interstate Family Support Act.

Sec. 44. Section 42-702, Reissue Revised Statutes of Nebraska, is amended to read:

42-702. In the Uniform Interstate Family Support Act:

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

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

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

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

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

(6) Income withholding order means an order or other legal process directed to an obligor's employer or other payor, as defined by the Income Withholding for Child Support Act or sections 42-347 to ~~42-380~~ 42-381, to withhold support from the income of the obligor.

(7) Initiating state means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under the Uniform Interstate Family Support Act or a law or procedure substantially similar to the act. ~~or under a law or procedure substantially similar to the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act.~~

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

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

(10) Issuing tribunal means the tribunal that issues a support order or renders a judgment determining parentage.

(11) Law includes decisional and statutory law and rules and regulations having the force of law.

(12) Obligee means:

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

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

(iii) An individual seeking a judgment determining parentage of the individual's child.

(13) Obligor means an individual, or the estate of a decedent:

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

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

(iii) Who is liable under a support order.

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

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

(16) Register means to record or file a support order or judgment determining parentage in the appropriate location for the recording or filing of foreign judgments generally or foreign support orders specifically.

~~(15)~~ (17) Registering tribunal means a tribunal in which a support order is registered.

~~(16)~~ (18) Responding state means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under the Uniform Interstate Family Support Act or a law or procedure substantially similar to the act. ~~or under a law or procedure substantially similar to the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act.~~

~~(17)~~ (19) Responding tribunal means the authorized tribunal in a responding state.

~~(18)~~ (20) Spousal support order means a support order for a spouse or former spouse of the obligor.

~~(19)~~ (21) State means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes:

(i) An Indian tribe; and

(ii) A foreign ~~jurisdiction~~ country or political subdivision that:

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

(B) Has established a reciprocal arrangement for child support with this state as provided in section 42-721; or

(C) Has ~~has~~ enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under the Uniform Interstate Family Support Act. ~~or the procedures under the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act.~~

~~(20)~~ (22) Support enforcement agency means a public official or agency authorized to seek:

(i) Enforcement of support orders or laws relating to the duty of support;

(ii) Establishment or modification of child support;

(iii) Determination of parentage; ~~or~~

(iv) ~~To locate~~ Location of obligors or their assets; or

(v) Determination of the controlling child support order.

~~(21)~~ (23) Support order means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a tribunal for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrearages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney's fees, and other relief.

~~(22)~~ (24) Tribunal means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

Sec. 45. Section 42-704, Reissue Revised Statutes of Nebraska, is amended to read:

42-704. (a) Remedies provided by the Uniform Interstate Family Support Act are cumulative and do not affect the availability of remedies under other law, including the recognition of a support order of a foreign country or political subdivision on the basis of comity.

(b) The Uniform Interstate Family Support Act does not:

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

(2) Grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding

under the act.

Sec. 46. Section 42-705, Reissue Revised Statutes of Nebraska, is amended to read:

42-705. (a) In a proceeding to establish, or enforce, ~~or modify~~ a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

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

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

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

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

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

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

(7) The individual asserted parentage in this state pursuant to section 43-104.02, 71-628, 71-640.01, or 71-640.02 with the Department of Health and Human Services Finance and Support; or

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

(b) The basis of personal jurisdiction set forth in subsection (a) of this section or in any other law of this state shall not be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of section 42-746 or section 85 of this act are met.

Sec. 47. Section 42-706, Reissue Revised Statutes of Nebraska, is amended to read:

42-706. Personal jurisdiction acquired by a tribunal of this state in a proceeding under the Uniform Interstate Family Support Act or other law of this state relating to a support order continues as long as a tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by sections 42-709 and 42-710 and section 54 of this act. A tribunal of this state exercising personal jurisdiction over a nonresident under section 42-705 may apply section 42-729 to receive evidence from another state, and section 42-731 to obtain discovery through a tribunal of another state. In all other respects, sections 42-714 to 42-748 do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by the Uniform Interstate Family Support Act.

Sec. 48. Section 42-709, Reissue Revised Statutes of Nebraska, is amended to read:

42-709. (a) A tribunal of this state ~~issuing a~~ that has issued a child support order consistent with the law of this state has and shall exercise continuing, exclusive jurisdiction over a ~~to modify its child support order if the order is the controlling order and:~~

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

(2) even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify its order. until all of the parties who are individuals have filed written consents with the tribunal of this state for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

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

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

(2) its order is not the controlling order. the order has been modified by a tribunal of another state pursuant to the Uniform Interstate Family Support Act or a law substantially similar to the act.

(c) If a child support order of this state is modified by a tribunal

of another state pursuant to the Uniform Interstate Family Support Act or a law substantially similar to the act, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:

(1) enforce the order that was modified as to amounts accruing before the modification;

(2) enforce nonmodifiable aspects of that order; and

(3) provide other appropriate relief for violations of that order which occurred before the effective date of the modification.

(d) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of

(c) If a tribunal of another state which has issued a child support order pursuant to the Uniform Interstate Family Support Act or a law substantially similar to the act which modifies a child support order of a tribunal of this state, tribunals of this state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.

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

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

(f) A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.

Sec. 49. Section 42-710, Reissue Revised Statutes of Nebraska, is amended to read:

42-710. (a) A tribunal of this state that has issued a child support order consistent with the law of this state may serve as an initiating tribunal to request a tribunal of another state to enforce:

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

(2) a money judgment for arrears of support and interest on the order accrued before a determination that an order of another state is the controlling order. or modify a support order issued in that state.

(b) A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply section 42-729 to receive evidence from another state and section 42-731 to obtain discovery through a tribunal of another state.

(c) A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.

Sec. 50. Section 42-711, Reissue Revised Statutes of Nebraska, is amended to read:

42-711. (a) If a proceeding is brought under the Uniform Interstate Family Support Act and only one tribunal has issued a child support order, the order of that tribunal controls. and must be so recognized.

(b) If a proceeding is brought under the Uniform Interstate Family Support Act and two or more child support orders have been issued by tribunals of this state or another state with regard to the same obligor and the same child, a tribunal of this state having personal jurisdiction over both the obligor and individual obligee shall apply the following rules in determining and by order shall determine which order to recognize for purposes of continuing, exclusive jurisdiction controls:

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

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

(3) If none of the tribunals would have continuing, exclusive jurisdiction under the act, the tribunal of this state having jurisdiction

over the parties shall issue a child support order, which controls, and must be so recognized.

(c) If two or more child support orders have been issued for the same obligor and the same child, upon request of ~~and if the obligor or the individual obligee resides in this state,~~ a party who is an individual or a support enforcement agency, ~~may request~~ a tribunal of this state having personal jurisdiction over both the obligor and the individual obligee shall ~~to~~ determine which order controls and must be so recognized under subsection (b) of this section. The request may be filed with a registration for enforcement or registration for modification pursuant to sections 42-736 to 42-747.02 and section 85 of this act or may be filed as a separate proceeding.

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

~~(d)~~ (e) The tribunal that issued the controlling order under subsection (a), (b), or (c) of this section is the tribunal that has continuing, exclusive jurisdiction to the extent provided under section 42-709 or 42-710.

~~(e)~~ (f) A tribunal of this state which that determines by order which is the identity of the controlling order under subdivision (b)(1) or (b)(2) or subsection (c) of this section or which that issues a new controlling order under subdivision (b)(3) of this section shall state in that order:

(1) the basis upon which the tribunal made its determination;  
 (2) the amount of prospective support, if any; and  
 (3) the total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by section 42-713.

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

(h) An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section shall be recognized in proceedings under the Uniform Interstate Family Support Act.

Sec. 51. Section 42-712, Reissue Revised Statutes of Nebraska, is amended to read:

42-712. In responding to multiple registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state.

Sec. 52. Section 42-713, Reissue Revised Statutes of Nebraska, is amended to read:

42-713. ~~Amounts~~ A tribunal of this state shall credit amounts collected and credited for a particular period pursuant to a support order any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this or another state. ~~must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state.~~

Sec. 53. A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under the Uniform Interstate Family Support Act or under other law of this state relating to a support order or recognizing a support order of a foreign country or political subdivision on the basis of comity may receive evidence from another state pursuant to section 42-729, communicate with a tribunal of another state pursuant to section 42-730, and obtain discovery through a tribunal of another state pursuant to section 42-731. In all other respects, sections 42-714 to 42-748 do not apply and the tribunal shall apply the procedural and substantive law of this state.

Sec. 54. (a) A tribunal of this state issuing a spousal support

order consistent with the law of this state has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

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

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

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

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

Sec. 55. Section 42-714, Reissue Revised Statutes of Nebraska, is amended to read:

42-714. (a) Except as otherwise provided in the Uniform Interstate Family Support Act, sections 42-714 to 42-732 apply to all proceedings under the act.

~~(b) The act provides for the following proceedings:~~

~~(1) establishment of an order for spousal support or child support pursuant to section 42-733;~~

~~(2) enforcement of a support order and income withholding order of another state without registration pursuant to sections 42-734 to 42-735;~~

~~(3) registration of an order for spousal support or child support of another state for enforcement pursuant to sections 42-736 to 42-747.02;~~

~~(4) modification of an order for child support or spousal support issued by a tribunal of this state pursuant to sections 42-707 to 42-710;~~

~~(5) registration of an order for child support of another state for modification pursuant to sections 42-736 to 42-747.02;~~

~~(6) determination of parentage pursuant to section 42-748; and~~

~~(7) assertion of jurisdiction over nonresidents pursuant to sections 42-705 and 42-706.~~

~~(e) An individual petitioner or a support enforcement agency may commence initiate a proceeding authorized under the act by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state which has or can obtain personal jurisdiction over the respondent.~~

Sec. 56. Section 42-716, Reissue Revised Statutes of Nebraska, is amended to read:

42-716. Except as otherwise provided by in the Uniform Interstate Family Support Act, a responding tribunal of this state:

(1) shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

(2) shall determine the duty of support and the amount payable in accordance with the support guidelines established under section 42-364.16.

Sec. 57. Section 42-717, Reissue Revised Statutes of Nebraska, is amended to read:

42-717. (a) Upon the filing of a petition authorized by the Uniform Interstate Family Support Act, an initiating tribunal of this state shall forward ~~three copies of~~ the petition and its accompanying documents:

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

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

(b) If requested by the responding tribunal, a responding state has not enacted the Uniform Interstate Family Support Act or a law or procedure substantially similar to the act, a tribunal of this state may shall issue a certificate or other document and make findings required by the law of the responding state. If the responding state is a foreign jurisdiction, country or political subdivision, upon request the tribunal may shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding state.

Sec. 58. Section 42-718, Reissue Revised Statutes of Nebraska, is amended to read:

42-718. (a) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to subsection ~~(e)~~ (b) of section 42-714, it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.



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

- (1) issue or enforce a support order, modify a child support order, determine the controlling child support order, or ~~render a judgment to determine parentage;~~
- (2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;
- (3) order income withholding;
- (4) determine the amount of any arrearages, and specify a method of payment;
- (5) enforce orders by civil or criminal contempt, or both;
- (6) set aside property for satisfaction of the support order;
- (7) place liens and order execution on the obligor's property;
- (8) order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;
- (9) issue a *capias* for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the *capias* in any local and state computer systems for criminal warrants;
- (10) order the obligor to seek appropriate employment by specified methods;
- (11) award reasonable attorney's fees and other fees and costs;
- (12) issue an order releasing or subordinating a lien pursuant to section 42-371; and
- (13) grant any other available remedy.

(c) A responding tribunal of this state shall include in a support order issued under the Uniform Interstate Family Support Act, or in the documents accompanying the order, the calculations on which the support order is based.

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

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

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

Sec. 59. Section 42-719, Reissue Revised Statutes of Nebraska, is amended to read:

42-719. If a petition or comparable pleading is received by an inappropriate tribunal of this state, ~~it~~ the tribunal shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner where and when the pleading was sent.

Sec. 60. Section 42-720, Reissue Revised Statutes of Nebraska, is amended to read:

42-720. (a) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under the Uniform Interstate Family Support Act.

(b) A support enforcement agency of this state that is providing services to the petitioner ~~as appropriate~~ shall:

- (1) take all steps necessary to enable an appropriate tribunal in this state or another state to obtain jurisdiction over the respondent;
- (2) request an appropriate tribunal to set a date, time, and place for a hearing;
- (3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;
- (4) within five days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;
- (5) within five days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication in a record from the respondent or the respondent's attorney, send a copy of the communication to the petitioner; and
- (6) notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) A support enforcement agency of this state that requests registration of a child support order in this state for enforcement or for

modification shall make reasonable efforts:

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

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

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

(e) A support enforcement agency of this state shall request a tribunal of this state to issue a child support order and an income withholding order that redirect payment of current support, arrearages, and interest if requested to do so by a support enforcement agency of another state pursuant to section 42-732.

~~(e)~~ (f) The act does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

Sec. 61. Section 42-721, Reissue Revised Statutes of Nebraska, is amended to read:

42-721. (a) If the Attorney General determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the Attorney General may order the agency to perform its duties under the Uniform Interstate Family Support Act or may provide those services directly to the individual.

(b) The Attorney General may determine that a foreign country or political subdivision has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination.

Sec. 62. Section 42-723, Reissue Revised Statutes of Nebraska, is amended to read:

42-723. (a) The Department of Health and Human Services is the state information agency under the Uniform Interstate Family Support Act.

(b) The state information agency shall:

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

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

(3) forward to the appropriate tribunal in the ~~place~~ county in this state in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under the act received from an initiating tribunal or the state information agency of the initiating state; and

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

Sec. 63. Section 42-724, Reissue Revised Statutes of Nebraska, is amended to read:

42-724. (a) ~~A~~ In a proceeding under the Uniform Interstate Family Support Act, a petitioner seeking to establish or modify a support order, or to determine parentage, in a proceeding under the Uniform Interstate Family Support Act must verify the or to register and modify a support order of another state shall file a petition. Unless otherwise ordered under section 42-725, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, social security number, and date of birth of each child for whom whose benefit support is sought. The or whose parentage is to be determined. Unless filed at the time of registration, the petition must shall be accompanied by a certified copy of any support order in effect known to have been issued by another tribunal. The accompanying documents may include any other information that may assist in locating or identifying the respondent.

(b) The petition ~~must~~ shall specify the relief sought. The petition

and accompanying documents ~~must~~ shall conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

Sec. 64. Section 42-725, Reissue Revised Statutes of Nebraska, is amended to read:

42-725. If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information shall be sealed and shall not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice. Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under the Uniform Interstate Family Support Act.

Sec. 65. Section 42-726, Reissue Revised Statutes of Nebraska, is amended to read:

42-726. (a) The petitioner ~~may~~ shall not be required to pay a filing fee or other costs.

(b) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal ~~may~~ shall not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney's fees may be taxed as costs, and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

(c) The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under sections 42-736 to ~~42-747~~ 42-747.02 and section 85 of this act, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

Sec. 66. Section 42-727, Reissue Revised Statutes of Nebraska, is amended to read:

42-727. (a) Participation by a petitioner in a proceeding under the Uniform Interstate Family Support Act before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

(b) A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under the Uniform Interstate Family Support Act.

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

Sec. 67. Section 42-729, Reissue Revised Statutes of Nebraska, is amended to read:

42-729. (a) The physical presence of ~~the petitioner~~ a nonresident party who is an individual in a ~~responding~~ tribunal of this state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(b) ~~A verified petition,~~ An affidavit, a document substantially complying with federally mandated forms, ~~and~~ or a document incorporated by reference in any of them, ~~not~~ which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under ~~oath~~ penalty of perjury by a party or witness residing in another state.

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

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

(e) Documentary evidence transmitted from another state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original ~~writing~~ may record shall not be excluded from evidence on

an objection based on the means of transmission.

(f) In a proceeding under the Uniform Interstate Family Support Act, a tribunal of this state ~~may~~ shall permit a party or witness residing in another state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with tribunals of other states in designating an appropriate location for the deposition or testimony.

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

(h) A privilege against disclosure of communications between spouses does not apply in a proceeding under the act.

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

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

Sec. 68. Section 42-730, Reissue Revised Statutes of Nebraska, is amended to read:

42-730. A tribunal of this state may communicate with a tribunal of another state, a foreign country, or a political subdivision by a record in writing, or by telephone or other means, to obtain information concerning the laws, of that state, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state, foreign country, or political subdivision. A tribunal of this state may furnish similar information by similar means to a tribunal of another state, a foreign country, or a political subdivision.

Sec. 69. Section 42-732, Reissue Revised Statutes of Nebraska, is amended to read:

42-732. (a) A support enforcement agency or tribunal of this state shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

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

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

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

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

Sec. 70. Section 42-733, Reissue Revised Statutes of Nebraska, is amended to read:

42-733. (a) If a support order entitled to recognition under the Uniform Interstate Family Support Act has not been issued, a responding tribunal of this state may issue a support order if:

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

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

(b) The tribunal may issue a temporary child support order if+

(1) the respondent has signed a verified statement acknowledging parentage;

(2) the respondent has been determined by or pursuant to law to be the parent; or

(3) there is other clear and convincing evidence that the respondent is the child's parent the tribunal determines that such an order is appropriate and the individual ordered to pay is:

(1) a presumed father of the child;

(2) petitioning to have his paternity adjudicated;

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

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

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

(6) the father of a child whose paternity is established either by

judicial proceeding or acknowledgment under sections 43-1401 to 43-1418;

(7) the mother of the child; or

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

(c) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to section 42-718.

Sec. 71. Section 42-734, Reissue Revised Statutes of Nebraska, is amended to read:

42-734. An income withholding order issued in another state may be sent by or on behalf of the obligee or by the support enforcement agency to the person ~~or entity~~ defined as the obligor's employer under the Income Withholding for Child Support Act or sections 42-347 to ~~42-380~~ 42-381 without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

Sec. 72. Section 42-734.01, Reissue Revised Statutes of Nebraska, is amended to read:

42-734.01. (a) Upon receipt of an income withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.

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

(c) Except as otherwise provided in subsection (d) of this section and section 42-734.02, the employer shall withhold and distribute the funds as directed in the withholding order by complying with the terms of the order which specify:

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

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

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

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

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

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

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

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

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

Sec. 73. Section 42-734.02, Reissue Revised Statutes of Nebraska, is amended to read:

42-734.02. If an obligor's employer receives ~~multiple~~ two or more income withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the ~~multiple~~ orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for ~~multiple~~ two or more child support obligees.

Sec. 74. Section 42-734.05, Reissue Revised Statutes of Nebraska, is amended to read:

42-734.05. (a) An obligor may contest the validity or enforcement of an income withholding order issued in another state and received directly by an employer in this state by registering the order in a tribunal of this state and filing a contest to that order as provided in sections 42-736 to 42-747.02 and section 85 of this act or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this state. ~~Section 42-739 applies to the contest.~~

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

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

(2) each employer that has directly received an income withholding order relating to the obligor; and

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

Sec. 75. Section 42-735, Reissue Revised Statutes of Nebraska, is amended to read:

42-735. (a) A party or support enforcement agency seeking to enforce a support order or an income withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

(b) Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to the Uniform Interstate Family Support Act.

Sec. 76. Section 42-737, Reissue Revised Statutes of Nebraska, is amended to read:

42-737. (a) A support order or an income withholding order of another state may be registered in this state by sending the following documents and information to the appropriate tribunal in this state:

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

(2) two copies, including one certified copy, of ~~all orders~~ the order to be registered, including any modification of ~~an~~ the order;

(3) a sworn statement by the ~~party seeking~~ person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;

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

(i) the obligor's address and social security number;

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

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

(5) except as otherwise provided in section 42-725, the name and address of the obligee and, if applicable, the ~~agency or~~ person to whom support payments are to be remitted.

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

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

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

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

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

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

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

Sec. 77. Section 42-738, Reissue Revised Statutes of Nebraska, is amended to read:

42-738. (a) A support order or income withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

(b) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(c) Except as otherwise provided in sections 42-736 to ~~42-747~~ 42-747.02 and section 85 of this act, a tribunal of this state shall recognize and enforce, but ~~may~~ shall not modify, a registered order if the issuing tribunal had jurisdiction.

Sec. 78. Section 42-739, Reissue Revised Statutes of Nebraska, is amended to read:

42-739. (a) The Except as otherwise provided in subsection (d) of this section, the law of the issuing state governs:

(1) the nature, extent, amount, and duration of current payments and

~~other obligations of support and the payment of arrearages under the order under a registered support order;~~

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

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

(b) In a proceeding for arrearages under a registered support order, the statute of limitation ~~under the laws~~ of this state or of the issuing state, whichever is longer, applies.

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

(d) After a tribunal of this or another state determines which is the controlling order and issues an order consolidating arrearages, if any, a tribunal of this state shall prospectively apply the law of the state issuing the controlling order, including its law on interest on arrearages, on current and future support, and on consolidated arrearages.

Sec. 79. Section 42-740, Reissue Revised Statutes of Nebraska, is amended to read:

42-740. (a) When a support order or income withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. The notice ~~must~~ shall be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) ~~The A~~ notice ~~must~~ shall inform the nonregistering party:

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

(2) that a hearing to contest the validity or enforcement of the registered order ~~must~~ shall be requested within twenty days after notice;

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

(4) of the amount of any alleged arrearages.

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

(1) identify the two or more orders and the order alleged by the registering person to be the controlling order and the consolidated arrearages, if any;

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

(3) state that the procedures provided in subsection (b) of this section apply to the determination of which is the controlling order; and

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

~~(e)~~ (d) Upon registration of an income withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to the Income Withholding for Child Support Act or sections 42-347 to 42-380 42-381.

Sec. 80. Section 42-742, Reissue Revised Statutes of Nebraska, is amended to read:

42-742. (a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

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

(2) the order was obtained by fraud;

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

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

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

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

(7) the statute of limitation under section 42-739 precludes enforcement of some or all of the alleged arrearages; or

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

(b) If a party presents evidence establishing a full or partial defense under subsection (a) of this section, a tribunal ~~may~~ shall stay enforcement of the registered order, continue the proceeding to permit

production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

(c) If the contesting party does not establish a defense under such subsection to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

Sec. 81. Section 42-745, Reissue Revised Statutes of Nebraska, is amended to read:

42-745. A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order ~~may~~ shall be modified only if the requirements of section 42-746 or 42-747.01 or section 85 of this act have been met.

Sec. 82. Section 42-746, Reissue Revised Statutes of Nebraska, is amended to read:

42-746. (a) ~~After~~ If section 42-747.01 does not apply, except as otherwise provided in section 85 of this act, upon petition a tribunal of this state may modify a child support order issued in another state ~~has been~~ which is registered in this state, the responding tribunal of this state may modify that order only if section 42-747.01 does not apply and if after notice and hearing ~~it~~ the tribunal finds that:

(1) the following requirements are met:

(i) neither the child, nor the individual obligee, ~~and nor~~ the obligor ~~do not reside~~ resides in the issuing state;

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

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

(2) this state is the state of residence of the child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this state, and all of the parties who are individuals have filed ~~written~~ consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction. ~~over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under the Uniform Interstate Family Support Act, the consent otherwise required of an individual residing in this state is not required for the tribunal to assume jurisdiction to modify the child support order.~~

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

(c) ~~A~~ Except as otherwise provided in section 85 of this act, a tribunal of this state ~~may~~ shall not modify any aspect of a child support order that ~~may not~~ cannot be modified under the law of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child support orders for the same obligor and the same child, the order that controls ~~and must be so recognized~~ under section 42-711 establishes the aspects of the support order which are nonmodifiable.

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

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

Sec. 83. Section 42-747, Reissue Revised Statutes of Nebraska, is amended to read:

42-747. ~~A~~ If a child support order issued by a tribunal of this state shall recognize a modification of its earlier child support order is modified by a tribunal of another state which assumed jurisdiction pursuant to the Uniform Interstate Family Support Act, a tribunal of this state, ~~or a law substantially similar to the Uniform Interstate Family Support Act and,~~ upon request, except as otherwise provided in the act: ~~it shall:~~

(1) may enforce the its order that was modified only as to ~~amounts~~ arrearages and interest accruing before the modification;

(2) ~~enforce only nonmodifiable aspects of that order;~~

~~(3)~~ may provide ~~other~~ appropriate relief ~~only~~ for violations of ~~that~~ its order which occurred before the effective date of the modification; and

~~(4)~~ (3) shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.



Sec. 84. Section 42-747.01, Reissue Revised Statutes of Nebraska, is amended to read:

42-747.01. (a) If all of the parties who are individuals reside in this state and the child does not reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to modify the issuing state's child support order in a proceeding to register that order.

(b) A tribunal of this state exercising jurisdiction under this section shall apply the provisions of sections 42-701 to 42-713 and sections 53 and 54 of this act and sections 42-736 to 42-747.02 and section 85 of this act and the procedural and substantive law of this state to the enforcement or modification proceeding. Sections 42-714 to 42-735 and 42-748 to 42-750 do not apply.

Sec. 85. (a) If a foreign country or political subdivision that is a state will not or cannot modify its order pursuant to its laws, a tribunal of this state may assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal whether or not the consent to modification of a child support order otherwise required of the individual pursuant to section 42-746 has been given or whether the individual seeking modification is a resident of this state or of the foreign country or political subdivision.

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

Sec. 86. Section 42-748, Reissue Revised Statutes of Nebraska, is amended to read:

42-748. ~~(a) A tribunal court of this state authorized to determine parentage of a child may serve as an initiating or a responding tribunal in a proceeding to determine parentage brought under the Uniform Interstate Family Support Act or a law or procedure substantially similar to the act. or under a law or procedure substantially similar to the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.~~

~~(b) In a proceeding to determine parentage, a responding tribunal of this state shall apply sections 43-1401 to 43-1418 and the rules of this state on choice of law.~~

Sec. 87. Section 42-749, Reissue Revised Statutes of Nebraska, is amended to read:

42-749. (a) For purposes of sections 42-749 and 42-750, Governor includes an individual performing the functions of Governor or the executive authority of a state covered by the Uniform Interstate Family Support Act.

(b) The Governor of this state may:

(1) demand that the Governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee; or

(2) on the demand by of the Governor of another state, surrender an individual found in this state who is charged criminally in the other state with having failed to provide for the support of an obligee.

(c) A provision for extradition of individuals not inconsistent with the act applies to the demand even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly committed and has not fled therefrom.

Sec. 88. Section 42-750, Reissue Revised Statutes of Nebraska, is amended to read:

42-750. (a) Before making a demand that the Governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the Governor of this state may require a prosecutor of this state to demonstrate that at least sixty days previously the obligee had initiated proceedings for support pursuant to the Uniform Interstate Family Support Act or that the proceeding would be of no avail.

(b) If, under the Uniform Interstate Family Support Act or a law substantially similar to the act, ~~the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act,~~ the Governor of another state makes a demand that the Governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the Governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the Governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

(c) If a proceeding for support has been initiated and the

individual whose rendition is demanded prevails, the Governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the Governor may decline to honor the demand if the individual is complying with the support order.

Sec. 89. Section 42-751, Reissue Revised Statutes of Nebraska, is amended to read:

42-751. The Uniform Interstate Family Support Act shall be applied and construed to effectuate its general purpose to make uniform In applying and construing the Uniform Interstate Family Support Act, consideration shall be given to the need to provide uniformity of the law with respect to the subject matter of the act among states enacting that enact it.

Sec. 90. Sections 90 to 98 of this act shall be known and may be cited as the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

Sec. 91. For purposes of the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act:

(1) Foreign protection order means a protection order issued by a tribunal of another state;

(2) Issuing state means the state whose tribunal issues a protection order;

(3) Mutual foreign protection order means a foreign protection order that includes provisions in favor of both the protected individual seeking enforcement of the order and the respondent;

(4) Protected individual means an individual protected by a protection order;

(5) Protection order means an injunction or other temporary or final order, issued by a tribunal under the domestic violence, family violence, or antistalking laws, broadly construed, of the issuing state, to prevent an individual from engaging in violent or threatening acts against, harassment of, contact or communication with, or physical proximity to, another individual;

(6) Respondent means the individual against whom enforcement of a protection order is sought;

(7) State means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band that has jurisdiction to issue protection orders; and

(8) Tribunal means a court, agency, or other entity authorized by law to issue or modify a protection order.

Sec. 92. (a) A person authorized by the law of this state to seek enforcement of a protection order may seek enforcement of a valid foreign protection order in a tribunal of this state. The tribunal shall enforce the terms of the order, including terms that provide relief that a tribunal of this state would lack power to provide but for this section. The tribunal shall enforce the order, whether the order was obtained by independent action or in another proceeding, if it is an order issued in response to a complaint, petition, or motion filed by or on behalf of an individual seeking protection. In a proceeding to enforce a foreign protection order, the tribunal shall follow the procedures of this state for the enforcement of protection orders.

(b) A tribunal of this state may not enforce a foreign protection order issued by a tribunal of a state that does not recognize the standing of a protected individual to seek enforcement of the order.

(c) A tribunal of this state shall enforce the provisions of a valid foreign protection order which govern custody and visitation, if the order was issued in accordance with the applicable federal and state jurisdictional requirements governing the issuance of custody and visitation orders in the issuing state.

(d) A foreign protection order is valid if it:

(1) identifies the protected individual and the respondent;

(2) is currently in effect;

(3) was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing state; and

(4) was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order or, in the case of an order ex parte, the respondent was given notice and has had or will have an opportunity to be heard within a reasonable time after the order was issued, in a manner consistent with the rights of the respondent to due process.

(e) A foreign protection order valid on its face is prima facie evidence of its validity.

(f) Absence of any of the criteria for validity of a foreign

protection order is an affirmative defense in an action seeking enforcement of the order.

(g) A tribunal of this state may enforce provisions of a mutual foreign protection order which favor a respondent only if:

(1) the respondent filed a written pleading seeking a protection order from the tribunal of the issuing state; and

(2) the tribunal of the issuing state made specific findings in favor of the respondent.

Sec. 93. (a) A law enforcement officer of this state, upon determining that there is probable cause to believe that a valid foreign protection order exists and that the order has been violated, shall enforce the order as if it were the order of a tribunal of this state. Presentation of a protection order that identifies both the protected individual and the respondent and, on its face, is currently in effect constitutes probable cause to believe that a valid foreign protection order exists. For purposes of this section, the protection order may be inscribed on a tangible medium or may have been stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of a protection order is not required for enforcement.

(b) If a foreign protection order is not presented, a law enforcement officer of this state may consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists.

(c) If a law enforcement officer of this state determines that an otherwise valid foreign protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall inform the respondent of the order, make a reasonable effort to serve the order upon the respondent, and allow the respondent a reasonable opportunity to comply with the order before enforcing the order.

(d) Registration or filing of an order in this state is not required for the enforcement of a valid foreign protection order pursuant to the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

Sec. 94. (a) Any individual may register a foreign protection order in this state. To register a foreign protection order, an individual shall:

(1) present a certified copy of the order to the Nebraska State Patrol for the registration of such orders; or

(2) present a certified copy of the order to another agency designated by the state and request that the order be registered with the Nebraska State Patrol.

(b) Upon receipt of a foreign protection order, the agency responsible for the registration of such orders shall register the order in accordance with this section. After the order is registered, the responsible agency shall furnish to the individual registering the order a certified copy of the registered order.

(c) The agency responsible for the registration of foreign protection orders shall register an order upon presentation of a copy of a protection order which has been certified by the issuing state. A registered foreign protection order that is inaccurate or is not currently in effect shall be corrected or removed from the registry in accordance with the law of this state.

(d) An individual registering a foreign protection order shall file an affidavit by the protected individual stating that, to the best of the protected individual's knowledge, the order is currently in effect.

(e) A foreign protection order registered under the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act may be entered in any existing state or federal registry of protection orders, in accordance with applicable law.

(f) A fee shall not be charged for the registration of a foreign protection order.

Sec. 95. This state or a local governmental agency, or a law enforcement officer, prosecuting attorney, clerk of the court, or any state or local governmental official acting in an official capacity, is immune from civil and criminal liability for conduct arising out of the registration or enforcement of a foreign protection order or the detention or arrest of an alleged violator of a foreign protection order if the conduct was done in good faith in an effort to comply with the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

Sec. 96. A protected individual who pursues remedies under the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act is not precluded from pursuing other legal or equitable remedies against the respondent.

Sec. 97. In applying and construing the Uniform Interstate

Enforcement of Domestic Violence Protection Orders Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Sec. 98. The Uniform Interstate Enforcement of Domestic Violence Protection Orders Act applies to protection orders issued before the operative date of this act and to continuing actions for enforcement of foreign protection orders commenced before the operative date of this act. A request for enforcement of a foreign protection order made on or after the operative date of this act for violations of a foreign protection order occurring before the operative date of this act is governed by the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

Sec. 99. Section 42-931, Reissue Revised Statutes of Nebraska, is amended to read:

42-931. ~~(1)~~ A valid foreign protection order related to domestic or family abuse issued by a ~~court~~ tribunal of another state, tribe, or territory shall be accorded full faith and credit by the courts of this state and enforced as if it were issued in this state pursuant to the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act.

~~(2)~~ A foreign protection order related to domestic or family abuse issued by a court of another state, tribe, or territory shall be valid if:

~~(a)~~ The issuing court had jurisdiction over the parties and matter under the law of such state, tribe, or territory;

~~(b)~~ The respondent was given reasonable notice and an opportunity to be heard sufficient to protect the respondent's right to due process before the order was issued; and

~~(c)~~ The protection order from another jurisdiction has not been rendered against both the petitioner and the respondent, unless: ~~(i)~~ The respondent filed a cross or counter petition, complaint, or other written pleading seeking such a protection order; and ~~(ii)~~ the issuing court made specific findings of domestic or family abuse against both the petitioner and respondent and determined that each party was entitled to such an order. There is a presumption of the validity of the foreign protection order when the order appears authentic on its face.

~~(3)~~ A peace officer may rely upon a copy of any putatively valid foreign protection order which has been provided to the peace officer by any source.

Sec. 100. Section 43-104, Revised Statutes Supplement, 2002, is amended to read:

43-104. Except as otherwise provided in the Nebraska Indian Child Welfare Act, no adoption shall be decreed unless written consents thereto are filed in the court of the county in which the person or persons desiring to adopt reside and the written consents are executed by (1) the minor child, if over fourteen years of age, or the adult child, (2) any district court, county court, or separate juvenile court in the State of Nebraska having jurisdiction of the custody of a minor child by virtue of ~~divorce~~ proceedings had in any district court, county court, or separate juvenile court in the State of Nebraska or by virtue of ~~section 43-1203~~ the Uniform Child Custody Jurisdiction and Enforcement Act, and (3) both parents of a child born in lawful wedlock if living, the surviving parent of a child born in lawful wedlock, the mother of a child born out of wedlock, or both the mother and father of a child born out of wedlock as determined pursuant to sections 43-104.08 to 43-104.24, except that consent shall not be required of any parent who (a) has relinquished the child for adoption by a written instrument, (b) has abandoned the child for at least six months next preceding the filing of the adoption petition, (c) has been deprived of his or her parental rights to such child by the order of any court of competent jurisdiction, or (d) is incapable of consenting. On and after April 20, 2002, a written consent or relinquishment for adoption under this section shall not be valid unless signed at least forty-eight hours after the birth of the child.

Sec. 101. The Revisor of Statutes shall assign sections 53 and 54 of this act after section 42-713 in Article 2 of the Uniform Interstate Family Support Act and section 85 of this act after section 42-747.02 in part 3 of Article 6 of the uniform act.

Sec. 102. This act becomes operative on January 1, 2004.

Sec. 103. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

Sec. 104. Original sections 42-701, 42-702, 42-704 to 42-706, 42-709 to 42-714, 42-716 to 42-721, 42-723 to 42-727, 42-729, 42-730, 42-732 to 42-734.02, 42-734.05, 42-735, 42-737 to 42-740, 42-742, 42-745 to 42-747.01, 42-748 to 42-751, and 42-931, Reissue Revised Statutes of Nebraska,

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and sections 42-351 and 43-104, Revised Statutes Supplement, 2002, are repealed.

Sec. 105. The following sections are outright repealed: Sections 43-1201 to 43-1225, Reissue Revised Statutes of Nebraska.