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SENATE BILL 284

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO FAMILY LAW; AMENDING THE UNIFORM INTERSTATE FAMILY
SUPPORT ACT TO COMPLY WITH INTERNATIONAL TREATY; MAKING
STYLISTIC CHANGES; AMENDING, REPEALING, RECOMPILING AND
ENACTING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 40-6A-102 NMSA 1978 (being Laws 1994,
Chapter 107, Section 101, as amended) is amended to read:

"40-6A-102. DEFINITIONS.--As used in the Uniform
Interstate Family Support Act:

[~~(1)~~] A. "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;

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1 [(-2)] B. "child-support order" means a support
2 order for a child, including a child who has attained the age
3 of majority under the law of the issuing state or foreign
4 country;

5 C. "convention" means the Convention on the
6 International Recovery of Child Support and Other Forms of
7 Family Maintenance, concluded at The Hague on November 23,
8 2007;

9 [(-3)] D. "duty of support" means an obligation
10 imposed or imposable by law to provide support for a child,
11 spouse or former spouse, including an unsatisfied obligation to
12 provide support;

13 E. "foreign country" means a country, including a
14 political subdivision thereof, other than the United States,
15 that authorizes the issuance of support orders and:

16 (1) that has been declared under the law of
17 the United States to be a foreign reciprocating country;

18 (2) that has established a reciprocal
19 arrangement for child support with this state as provided in
20 Section 40-6A-308 NMSA 1978;

21 (3) that has enacted a law or established
22 procedures for the issuance and enforcement of support orders
23 that are substantially similar to the procedures pursuant to
24 the Uniform Interstate Family Support Act; or

25 (4) in which the convention is in force with

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1 respect to the United States;

2 F. "foreign support order" means a support order of
3 a foreign tribunal;

4 G. "foreign tribunal" means a court, administrative
5 agency or quasi-judicial entity of a foreign country that is
6 authorized to establish, enforce or modify support orders or to
7 determine parentage of a child. "Foreign tribunal" includes a
8 competent authority pursuant to the convention;

9 [~~4~~] H. "home state" means the state or foreign
10 country in which a child lived with a parent or a person acting
11 as parent for at least six consecutive months immediately
12 preceding the time of filing of a petition or comparable
13 pleading for support and, if a child is less than six months
14 old, the state or foreign country in which the child lived from
15 birth with [~~any of them~~] a parent or a person acting as parent.
16 A period of temporary absence of any of them is counted as part
17 of the six-month or other period;

18 [~~5~~] I. "income" includes earnings or other
19 periodic entitlements to money from any source and any other
20 property subject to withholding for support under the law of
21 this state;

22 [~~6~~] J. "income-withholding order" means an order
23 or other legal process directed to an obligor's employer or
24 other debtor to withhold support from the income of the
25 obligor;

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1 [~~(7)~~] "initiating state" means a state from which a
2 proceeding is forwarded or in which a proceeding is filed for
3 forwarding to a responding state under the Uniform Interstate
4 Family Support Act or a law or procedure substantially similar
5 to that act;

6 ~~(8)~~] K. "initiating tribunal" means the
7 [authorized] tribunal [~~in an initiating state~~] of a state or
8 foreign country from which a petition or comparable pleading is
9 forwarded or in which a petition or comparable pleading is
10 filed for forwarding to another state or a foreign country;

11 L. "issuing foreign country" means the foreign
12 country in which a tribunal issues a support order or a
13 judgment determining parentage of a child;

14 [~~(9)~~] M. "issuing state" means the state in which a
15 tribunal issues a support order or [~~renders~~] a judgment
16 determining parentage of a child;

17 [~~(10)~~] N. "issuing tribunal" means the tribunal of
18 a state or foreign country that issues a support order or
19 [~~renders~~] a judgment determining parentage of a child;

20 [~~(11)~~] O. "law" includes decisional and statutory
21 law and rules and regulations having the force of law;

22 [~~(12)~~] P. "obligee" means:

23 [~~(i)~~] (1) an individual to whom a duty of
24 support is or is alleged to be owed or in whose favor a support
25 order [~~has been issued~~] or a judgment determining parentage of

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1 a child has been [~~rendered~~] issued;

2 [~~(i)~~] (2) a foreign country, state or
3 political subdivision of a state to which the rights under a
4 duty of support or support order have been assigned or which
5 has independent claims based on financial assistance provided
6 to an individual obligee in place of child support; [~~or~~

7 ~~(ii)~~] (3) an individual seeking a judgment
8 determining parentage of the individual's child; or

9 (4) a person that is a creditor in a
10 proceeding pursuant to Sections 40-6A-701 through 40-6A-713
11 NMSA 1978;

12 [~~(13)~~] Q. "obligor" means an individual or the
13 estate of a decedent who:

14 [~~(i)~~] (1) owes or is alleged to owe a duty of
15 support;

16 [~~(ii)~~] (2) is alleged but has not been
17 adjudicated to be a parent of a child; [~~or~~

18 ~~(iii)~~] (3) is liable under a support order; or

19 (4) is a debtor in a proceeding pursuant to
20 Sections 40-6A-701 through 40-6A-713 NMSA 1978;

21 R. "outside this state" means a location in another
22 state or in a country other than the United States, whether or
23 not the country is a foreign country;

24 [~~(14)~~] S. "person" means an individual,
25 corporation, business trust, estate, trust, partnership,

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1 limited liability company, association, joint venture, public
2 corporation, government or governmental subdivision, agency or
3 instrumentality [~~public corporation~~] or any other legal or
4 commercial entity;

5 [~~15~~] T. "record" means information that is
6 inscribed on a tangible medium or that is stored in an
7 electronic or other medium and is retrievable in perceivable
8 form;

9 [~~16~~] U. "register" means to [~~record~~] file in a
10 tribunal of this state a support order or judgment determining
11 parentage [~~in the appropriate tribunal of this state~~] of a
12 child issued in another state or a foreign country;

13 [~~17~~] V. "registering tribunal" means a tribunal
14 in which a support order or judgment determining parentage of a
15 child is registered;

16 [~~18~~] W. "responding state" means a state in which
17 a [~~proceeding~~] petition or comparable pleading for support or
18 to determine parentage of a child is filed or to which a
19 [~~proceeding~~] petition or comparable pleading is forwarded for
20 filing from [~~an initiating~~] another state [~~under the Uniform~~
21 ~~Interstate Family Support Act or law or procedure substantially~~
22 ~~similar to that act~~] or a foreign country;

23 [~~19~~] X. "responding tribunal" means the
24 authorized tribunal in a responding state or foreign country;

25 [~~20~~] Y. "spousal support order" means a support

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1 order for a spouse or former spouse of the obligor;

2 [~~(21)~~] Z. "state" means a state of the United
3 States, the District of Columbia, Puerto Rico, the United
4 States Virgin Islands or any territory or insular possession
5 [~~subject to~~] under the jurisdiction of the United States.

6 "State" includes an Indian tribe, pueblo, nation or band; [~~and~~
7 ~~a foreign country or subdivision that has:~~

8 ~~(i) been declared to be a foreign~~
9 ~~reciprocating country or political subdivision under federal~~
10 ~~law;~~

11 ~~(ii) established a reciprocal arrangement for~~
12 ~~child support with this state as provided in Section 40-6A-308~~
13 ~~NMSA 1978; or~~

14 ~~(iii) enacted a law or established procedures~~
15 ~~for issuance and enforcement of support orders which are~~
16 ~~substantially similar to the procedures under the Uniform~~
17 ~~Interstate Family Support Act;~~

18 ~~(22)~~] AA. "support enforcement agency" means a
19 public official, governmental entity or private agency
20 authorized to:

21 [~~(i)~~] (1) seek enforcement of support orders
22 or laws relating to the duty of support;

23 [~~(ii)~~] (2) seek establishment or modification
24 of child support;

25 [~~(iii) seek~~] (3) request determination of

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1 parentage of a child;

2 [~~(iv)~~] (4) attempt to locate obligors or their
3 assets; or

4 [~~(v) determine~~] (5) request determination of
5 the controlling child-support order;

6 [~~(23)~~] BB. "support order" means a judgment,
7 decree, order, decision or directive, whether temporary, final
8 or subject to modification, issued [~~by a tribunal~~] in a state
9 or foreign country for the benefit of a child, a spouse or a
10 former spouse, [~~which~~] that provides for monetary support,
11 health care, arrearages, retroactive support or reimbursement
12 [~~and~~] for financial assistance provided to an individual
13 obligee in place of child support. "Support order" may include
14 related costs and fees, interest, income withholding,
15 [~~attorney's~~] automatic adjustment, reasonable attorney fees and
16 other relief; and

17 [~~(24)~~] CC. "tribunal" means a court, administrative
18 agency or quasi-judicial entity authorized to establish,
19 enforce or modify support orders or to determine parentage of a
20 child."

21 **SECTION 2.** Section 40-6A-105 NMSA 1978 (being Laws 1994,
22 Chapter 107, Section 102, as amended) is recompiled as Section
23 40-6A-103 NMSA 1978 and is amended to read:

24 "40-6A-103. STATE TRIBUNAL [~~OF STATE~~] AND SUPPORT
25 ENFORCEMENT AGENCY.---

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1 A. The district courts are the tribunals of this
2 state.

3 B. The human services department is the support
4 enforcement agency of this state."

5 SECTION 3. Section 40-6A-104 NMSA 1978 (being Laws 1994,
6 Chapter 107, Section 103, as amended) is amended to read:

7 "40-6A-104. REMEDIES CUMULATIVE.--

8 ~~[(a)]~~ A. Remedies provided by the Uniform
9 Interstate Family Support Act are cumulative and do not affect
10 the availability of remedies under other law [~~including~~] or the
11 recognition of a foreign support order [~~of a foreign country or~~
12 ~~political subdivision~~] on the basis of comity.

13 ~~[(b)]~~ B. The Uniform Interstate Family Support Act
14 does not:

15 (1) provide the exclusive method of
16 establishing or enforcing a support order under the law of this
17 state; or

18 (2) grant a tribunal of this state
19 jurisdiction to render judgment or issue an order relating to
20 child custody or visitation in a proceeding [~~under~~] pursuant to
21 the Uniform Interstate Family Support Act."

22 SECTION 4. A new Section 40-6A-105 NMSA 1978 is enacted
23 to read:

24 "40-6A-105. [NEW MATERIAL] APPLICATION OF UNIFORM
25 INTERSTATE FAMILY SUPPORT ACT TO RESIDENT OF FOREIGN COUNTRY

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1 AND FOREIGN SUPPORT PROCEEDING.--

2 A. A tribunal of this state shall apply Sections
3 40-6A-101 through 40-6A-616 NMSA 1978 and, as applicable,
4 Sections 40-6A-701 through 40-6A-713 NMSA 1978, to a support
5 proceeding involving:

- 6 (1) a foreign support order;
7 (2) a foreign tribunal; or
8 (3) an obligee, obligor or child residing in a
9 foreign country.

10 B. A tribunal of this state that is requested to
11 recognize and enforce a support order on the basis of comity
12 may apply the procedural and substantive provisions of Sections
13 40-6A-101 through 40-6A-616 NMSA 1978.

14 C. Sections 40-6A-701 through 40-6A-713 NMSA 1978
15 shall apply only to a support proceeding pursuant to the
16 convention. In such a proceeding, if a provision of Sections
17 40-6A-701 through 40-6A-713 NMSA 1978 is inconsistent with
18 Sections 40-6A-101 through 40-6A-616 NMSA 1978, the provisions
19 of Sections 40-6A-701 through 40-6A-713 NMSA 1978 control."

20 SECTION 5. Section 40-6A-201 NMSA 1978 (being Laws 1994,
21 Chapter 107, Section 201, as amended) is amended to read:

22 "40-6A-201. BASES FOR JURISDICTION OVER NONRESIDENT.--

23 [~~a~~] A. In a proceeding to establish or enforce a
24 support order or to determine parentage of a child, a tribunal
25 of this state may exercise personal jurisdiction over a

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1 nonresident individual or the individual's guardian or
2 conservator if:

3 (1) the individual is personally served with
4 notice within this state;

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

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

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

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

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

18 (7) the individual asserted parentage of a
19 child in the putative father registry maintained in this state
20 by the department of health; or

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

24 [~~(b)~~] B. The bases of personal jurisdiction set
25 forth in Subsection [~~(a)~~] A of this section or in any other law

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1 of this state may not be used to acquire personal jurisdiction
2 for a tribunal of [~~the~~] this state to modify a child support
3 order of another state unless the requirements of Section
4 40-6A-611 [~~or 40-6A-615~~] NMSA 1978 are met or, in the case of a
5 foreign support order, unless the requirements of Section
6 40-6A-615 NMSA 1978 are met."

7 SECTION 6. Section 40-6A-203 NMSA 1978 (being Laws 1994,
8 Chapter 107, Section 203, as amended) is amended to read:

9 "40-6A-203. INITIATING AND RESPONDING TRIBUNAL OF
10 STATE.--[~~Under~~] Pursuant to the Uniform Interstate Family
11 Support Act, a tribunal of this state may serve as an
12 initiating tribunal to forward proceedings to a tribunal of
13 another state or a foreign country and as a responding tribunal
14 for proceedings initiated in another state or a foreign
15 country."

16 SECTION 7. Section 40-6A-204 NMSA 1978 (being Laws 1994,
17 Chapter 107, Section 204, as amended) is amended to read:

18 "40-6A-204. SIMULTANEOUS PROCEEDINGS.--

19 [~~(a)~~] A. A tribunal of this state may exercise
20 jurisdiction to establish a support order if the petition or
21 comparable pleading is filed after a petition or comparable
22 pleading is filed in another state or a foreign country only
23 if:

24 (1) the petition or comparable pleading in
25 this state is filed before the expiration of the time allowed

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1 in the other state or the foreign country for filing a
2 responsive pleading challenging the exercise of jurisdiction by
3 the other state or the foreign country;

4 (2) the contesting party timely challenges the
5 exercise of jurisdiction in the other state or the foreign
6 country; and

7 (3) if relevant, this state is the home state
8 of the child.

9 [~~(b)~~] B. A tribunal of this state may not exercise
10 jurisdiction to establish a support order if the petition or
11 comparable pleading is filed before a petition or comparable
12 pleading is filed in another state or a foreign country if:

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

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

20 (3) if relevant, the other state or foreign
21 country is the home state of the child."

22 **SECTION 8.** Section 40-6A-205 NMSA 1978 (being Laws 1994,
23 Chapter 107, Section 205, as amended) is amended to read:

24 "40-6A-205. CONTINUING, EXCLUSIVE JURISDICTION TO MODIFY
25 CHILD-SUPPORT ORDER.--

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

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

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

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

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

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

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1 ~~(c)~~ C. If a tribunal of another state has issued
2 a child-support order pursuant to the Uniform Interstate Family
3 Support Act or a law substantially similar to that act that
4 modifies a child-support order of a tribunal of this state,
5 tribunals of this state shall recognize the continuing,
6 exclusive jurisdiction of the tribunal of the other state.

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

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

16 **SECTION 9.** Section 40-6A-206 NMSA 1978 (being Laws 1994,
17 Chapter 107, Section 206, as amended) is amended to read:

18 "40-6A-206. CONTINUING JURISDICTION TO ENFORCE
19 CHILD-SUPPORT ORDER.--

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

24 (1) the order if the order is the controlling
25 order and has not been modified by a tribunal of another state

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1 that assumed jurisdiction pursuant to the Uniform Interstate
2 Family Support Act; or

3 (2) a money judgment for arrears of support
4 and interest on the order accrued before a determination that
5 an order of a tribunal of another state is the controlling
6 order.

7 [~~(b)~~] B. A tribunal of this state having continuing
8 jurisdiction over a support order may act as a responding
9 tribunal to enforce the order."

10 SECTION 10. Section 40-6A-207 NMSA 1978 (being Laws 1994,
11 Chapter 107, Section 207, as amended) is amended to read:

12 "40-6A-207. DETERMINATION OF CONTROLLING CHILD-SUPPORT
13 ORDER.--

14 [~~(a)~~] A. If a proceeding is brought [~~under~~]
15 pursuant to the Uniform Interstate Family Support Act and only
16 one tribunal has issued a child-support order, the order of
17 that tribunal controls and shall be so recognized.

18 [~~(b)~~] B. If a proceeding is brought [~~under~~]
19 pursuant to the Uniform Interstate Family Support Act and two
20 or more child-support orders have been issued by tribunals of
21 this state, [~~or~~] another state or a foreign country with regard
22 to the same obligor and same child, a tribunal of this state
23 having personal jurisdiction over both the obligor and
24 individual obligee shall apply the following rules and by order
25 shall determine which order controls and must be recognized:

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1 (1) if only one of the tribunals would have
2 continuing, exclusive jurisdiction [~~under~~] pursuant to the
3 Uniform Interstate Family Support Act, the order of that
4 tribunal controls [~~and shall be so recognized~~];

5 (2) if more than one of the tribunals would
6 have continuing, exclusive jurisdiction [~~under~~] pursuant to the
7 Uniform Interstate Family Support Act:

8 (a) an order issued by a tribunal in the
9 current home state of the child controls; [~~but~~] or

10 (b) if an order has not been issued in
11 the current home state of the child, the order most recently
12 issued controls; and

13 (3) if none of the tribunals would have
14 continuing, exclusive jurisdiction [~~under~~] pursuant to the
15 Uniform Interstate Family Support Act, the tribunal of this
16 state shall issue a child-support order, which controls.

17 [~~(c)~~] C. If two or more child-support orders have
18 been issued for the same obligor and same child upon request of
19 a party who is an individual or that is a support enforcement
20 agency, a tribunal of this state having personal jurisdiction
21 over both the obligor and the obligee who is an individual
22 shall determine which order controls [~~under~~] pursuant to
23 Subsection [~~(b)~~] B of this section. The request may be filed
24 with a registration for enforcement or registration for
25 modification pursuant to Sections 40-6A-601 through 40-6A-615

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1 NMSA 1978, or may be filed as a separate proceeding.

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

8 [~~(e)~~] E. The tribunal that issued the controlling
9 order under Subsection [~~(a)~~, ~~(b)~~ or ~~(c)~~] A, B or C of this
10 section has continuing jurisdiction to the extent provided in
11 Section 40-6A-205 or 40-6A-206 NMSA 1978.

12 [~~(f)~~] F. A tribunal of this state that determines
13 by order which is the controlling order [~~under~~] pursuant to
14 Paragraph (1) or (2) of Subsection [~~(b)~~] B or Subsection [~~(c)~~]
15 C of this section or that issues a new controlling order
16 [~~under~~] pursuant to Paragraph (3) of Subsection [~~(b)~~] B of this
17 section shall state in that order:

- 18 (1) the basis on which the tribunal made its
19 determination;
- 20 (2) the amount of prospective support, if any;
- 21 and
- 22 (3) the total amount of consolidated arrears
23 and accrued interest, if any, under all of the orders after all
24 payments made are credited as provided by Section 40-6A-209
25 NMSA 1978.

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1 [~~(g)~~] G. Within thirty days after issuance of an
2 order determining which is the controlling order, the party
3 obtaining the order shall file a certified copy of it in each
4 tribunal that issued or registered an earlier order of child
5 support. A party or support enforcement agency obtaining the
6 order that fails to file a certified copy is subject to
7 appropriate sanctions by a tribunal in which the issue of
8 failure to file arises. The failure to file does not affect
9 the validity or enforceability of the controlling order.

10 [~~(h)~~] H. An order that has been determined to be
11 the controlling order, or a judgment for consolidated arrears
12 of support and interest, if any, made pursuant to this section
13 must be recognized in proceedings under the Uniform Interstate
14 Family Support Act."

15 **SECTION 11.** Section 40-6A-208 NMSA 1978 (being Laws 1994,
16 Chapter 107, Section 208, as amended) is amended to read:

17 "40-6A-208. CHILD SUPPORT ORDERS FOR TWO OR MORE
18 OBLIGEES.--In responding to registrations or petitions for
19 enforcement of two or more child support orders in effect at
20 the same time with regard to the same obligor and different
21 individual obligees, at least one of which was issued by a
22 tribunal of another state or a foreign country, a tribunal of
23 this state shall enforce those orders in the same manner as if
24 the orders had been issued by a tribunal of this state."

25 **SECTION 12.** Section 40-6A-209 NMSA 1978 (being Laws 1994,

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1 Chapter 107, Section 209, as amended) is amended to read:

2 "40-6A-209. CREDIT FOR PAYMENTS.--A tribunal of this
3 state shall credit amounts collected for a particular period
4 pursuant to any child-support order against the amounts owed
5 for the same period under any other child-support order for
6 support of the same child issued by a tribunal of this or
7 another state or a foreign country."

8 SECTION 13. Section 40-6A-210 NMSA 1978 (being Laws 2005,
9 Chapter 166, Section 11) is amended to read:

10 "40-6A-210. APPLICATION OF THE UNIFORM INTERSTATE FAMILY
11 SUPPORT ACT TO A NONRESIDENT SUBJECT TO PERSONAL
12 JURISDICTION.--A tribunal of this state exercising personal
13 jurisdiction over a nonresident in a proceeding [~~under~~
14 pursuant to the Uniform Interstate Family Support Act, [~~under~~
15 pursuant to other law of this state relating to a support order
16 or recognizing a foreign support order [~~of a foreign country or~~
17 ~~political subdivision on the basis of comity~~] may receive
18 evidence from [~~another~~] outside this state pursuant to Section
19 40-6A-316 NMSA 1978, communicate with a tribunal [~~or another~~
20 outside this state pursuant to Section 40-6A-317 NMSA 1978 and
21 obtain discovery through a tribunal [~~of another~~] outside this
22 state pursuant to Section 40-6A-318 NMSA 1978. In all other
23 respects, Sections 40-6A-301 through [~~40-6A-701~~] 40-6A-616 NMSA
24 1978 do not apply and the tribunal shall apply the procedural
25 and substantive law of this state."

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1 SECTION 14. Section 40-6A-211 NMSA 1978 (being Laws 2005,
2 Chapter 166, Section 12) is amended to read:

3 "40-6A-211. CONTINUING, EXCLUSIVE JURISDICTION TO MODIFY
4 SPOUSAL-SUPPORT ORDER.--

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

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

14 ~~[(c)]~~ C. A tribunal of this state that has
15 continuing, exclusive jurisdiction over a spousal-support order
16 may serve as:

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

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

22 SECTION 15. Section 40-6A-301 NMSA 1978 (being Laws 1994,
23 Chapter 107, Section 301, as amended) is amended to read:

24 "40-6A-301. PROCEEDINGS UNDER THE UNIFORM INTERSTATE
25 FAMILY SUPPORT ACT.--

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1 ~~[(a)]~~ A. Except as otherwise provided in the
2 Uniform Interstate Family Support Act, Sections 40-6A-301
3 through 40-6A-319 NMSA 1978 apply to all proceedings ~~[under]~~
4 pursuant to that act.

5 ~~[(b)]~~ B. An individual petitioner or a support
6 enforcement agency may initiate a proceeding authorized ~~[under]~~
7 pursuant to the Uniform Interstate Family Support Act by filing
8 a petition in an initiating tribunal for forwarding to a
9 responding tribunal or by filing a petition or a comparable
10 pleading directly in a tribunal of another state ~~[which]~~ or a
11 foreign country that has or can obtain personal jurisdiction
12 over the respondent."

13 **SECTION 16.** Section 40-6A-303 NMSA 1978 (being Laws 1994,
14 Chapter 107, Section 303, as amended) is amended to read:

15 "40-6A-303. APPLICATION OF LAW OF STATE.--Except as
16 otherwise provided by the Uniform Interstate Family Support
17 Act, a responding tribunal of this state shall:

18 ~~[(1)]~~ A. apply the procedural and substantive law
19 generally applicable to similar proceedings originating in this
20 state and may exercise all powers and provide all remedies
21 available in those proceedings; and

22 ~~[(2)]~~ B. determine the duty of support and the
23 amount payable in accordance with the law and support
24 guidelines of this state."

25 **SECTION 17.** Section 40-6A-304 NMSA 1978 (being Laws 1994,

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1 Chapter 107, Section 304, as amended) is amended to read:

2 "40-6A-304. DUTIES OF INITIATING TRIBUNAL.--

3 [~~(a)~~] A. Upon the filing of a petition authorized
4 [~~by~~] pursuant to the Uniform Interstate Family Support Act, an
5 initiating tribunal of this state shall forward the petition
6 and its accompanying documents:

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

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

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

24 SECTION 18. Section 40-6A-305 NMSA 1978 (being Laws 1994,
25 Chapter 107, Section 305, as amended) is amended to read:

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1 "40-6A-305. DUTIES AND POWERS OF RESPONDING TRIBUNAL.--

2 [~~(a)~~] A. When a responding tribunal of this state
3 receives a petition or comparable pleading from an initiating
4 tribunal or directly pursuant to Subsection [~~(b)~~] B of Section
5 40-6A-301 NMSA 1978, it shall cause the petition or pleading to
6 be filed and notify the petitioner where and when it was filed.

7 [~~(b)~~] B. A responding tribunal of this state, to
8 the extent not prohibited by other law, may do one or more of
9 the following:

- 10 (1) [~~issue~~] establish or enforce a support
11 order, modify a child-support order, determine the controlling
12 child-support order or determine parentage of a child;
- 13 (2) order an obligor to comply with a support
14 order, specifying the amount and the manner of compliance;
- 15 (3) order income withholding;
- 16 (4) determine the amount of any arrearage and
17 specify a method of payment;
- 18 (5) enforce orders by civil or criminal
19 contempt, or both;
- 20 (6) set aside property for satisfaction of the
21 support order;
- 22 (7) place liens and order execution on the
23 obligor's property;
- 24 (8) order an obligor to keep the tribunal
25 informed of the obligor's current residential address,

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1 electronic mail address, telephone number, employer, address of
2 employment and telephone number at the place of employment;

3 (9) issue a bench warrant for an obligor who
4 has failed after proper notice to appear at a hearing ordered
5 by the tribunal and enter the bench warrant in any local and
6 state computer systems for criminal warrants;

7 (10) order the obligor to seek appropriate
8 employment by specified methods;

9 (11) award reasonable attorney's fees and
10 other fees and costs; and

11 (12) grant any other available remedy.

12 [~~(c)~~] C. A responding tribunal of this state shall
13 include in a support order issued [~~under~~] pursuant to the
14 Uniform Interstate Family Support Act, or in the documents
15 accompanying the order, the calculations on which the support
16 order is based.

17 [~~(d)~~] D. A responding tribunal of this state may
18 not condition the payment of a support order issued [~~under~~]
19 pursuant to the Uniform Interstate Family Support Act upon
20 compliance by a party with provisions for visitation.

21 [~~(e)~~] E. If a responding tribunal of this state
22 issues an order [~~under~~] pursuant to the Uniform Interstate
23 Family Support Act, the tribunal shall send a copy of the order
24 to the petitioner and the respondent and to the initiating
25 tribunal, if any.

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1 ~~[(f)]~~ F. If requested to enforce a support order,
2 arrears or judgment or modify a support order stated in a
3 foreign currency, a responding tribunal of this state shall
4 convert the amount stated in the foreign currency to the
5 equivalent amount in dollars under applicable official or
6 market exchange rate as publicly reported."

7 **SECTION 19.** Section 40-6A-306 NMSA 1978 (being Laws 1994,
8 Chapter 107, Section 306, as amended) is amended to read:

9 "40-6A-306. **INAPPROPRIATE TRIBUNAL.**--If a petition or
10 comparable pleading is received by an inappropriate tribunal of
11 this state, the tribunal shall forward the pleading and
12 accompanying documents to an appropriate tribunal ~~[in]~~ of this
13 state or another state and notify the petitioner where and when
14 the pleading was sent."

15 **SECTION 20.** Section 40-6A-307 NMSA 1978 (being Laws 1994,
16 Chapter 107, Section 307, as amended) is amended to read:

17 "40-6A-307. **DUTIES OF SUPPORT ENFORCEMENT AGENCY.**--

18 ~~[(a)]~~ A. A support enforcement agency of this
19 state, upon request, shall provide services to a petitioner in
20 a proceeding ~~[under]~~ pursuant to the Uniform Interstate Family
21 Support Act.

22 ~~[(b)]~~ B. A support enforcement agency of this state
23 that is providing services to the petitioner shall:

24 (1) take all steps necessary to enable an
25 appropriate tribunal ~~[in this state or another state]~~ of this

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1 state, another state or a foreign country to obtain
2 jurisdiction over the respondent;

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

5 (3) make a reasonable effort to obtain all
6 relevant information, including information as to income and
7 property of the parties;

8 (4) within two days, exclusive of Saturdays,
9 Sundays and legal holidays, after receipt of a written notice
10 in a record from an initiating, responding or registering
11 tribunal, send a copy of the notice to the petitioner;

12 (5) within two days, exclusive of Saturdays,
13 Sundays and legal holidays, after receipt of a written
14 communication in a record from the respondent or the
15 respondent's attorney, send a copy of the communication to the
16 petitioner; and

17 (6) notify the petitioner if jurisdiction over
18 the respondent cannot be obtained.

19 [~~e~~] C. A support enforcement agency of this state
20 that requests registration of a child-support order in this
21 state for enforcement or for modification shall make reasonable
22 efforts:

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

25 (2) if two or more child-support orders exist

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1 and the identity of the controlling order has not been
2 determined, to ensure that a request for such a determination
3 is made in a tribunal having jurisdiction to do so.

4 [~~d~~] D. A support enforcement agency of this state
5 that requests registration and enforcement of a support order,
6 arrears or judgment stated in a foreign currency shall convert
7 the amounts stated in the foreign currency into the equivalent
8 amounts in dollars under the applicable official or market
9 exchange rate as publicly reported.

10 [~~e~~] E. A support enforcement agency of the state
11 shall issue or request a tribunal of this state to issue a
12 child-support order and an income-withholding order that
13 redirect payment of current support, arrears and interest if
14 requested to do so by a support enforcement agency of another
15 state pursuant to Section 40-6A-319 NMSA 1978.

16 [~~f~~] F. The Uniform Interstate Family Support Act
17 does not create or negate a relationship of attorney and client
18 or other fiduciary relationship between a support enforcement
19 agency or the attorney for the agency and the individual being
20 assisted by the agency."

21 **SECTION 21.** Section 40-6A-308 NMSA 1978 (being Laws 1994,
22 Chapter 107, Section 308, as amended) is amended to read:

23 "40-6A-308. DUTY OF ATTORNEY GENERAL.--

24 [~~a~~] A. If the attorney general determines that
25 the support enforcement agency is neglecting or refusing to

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1 provide services to an individual, the attorney general may
2 order the agency to perform its duties [~~under~~] pursuant to the
3 Uniform Interstate Family Support Act or may provide those
4 services directly to the individual.

5 [~~(b)~~] B. The attorney general may determine that a
6 foreign country [~~or political subdivision~~] has established a
7 reciprocal arrangement for child support with this state and
8 take appropriate action for notification of the determination."

9 SECTION 22. Section 40-6A-310 NMSA 1978 (being Laws 1994,
10 Chapter 107, Section 310, as amended) is amended to read:

11 "40-6A-310. DUTIES OF STATE INFORMATION AGENCY.--

12 [~~(a)~~] A. The human services department is the state
13 information agency [~~under~~] pursuant to the Uniform Interstate
14 Family Support Act.

15 [~~(b)~~] B. The state information agency shall:

16 (1) compile and maintain a current list,
17 including addresses, of the tribunals in this state [~~which~~]
18 that have jurisdiction [~~under~~] pursuant to the Uniform
19 Interstate Family Support Act and any support enforcement
20 agencies in this state and transmit a copy to the state
21 information agency of every other state;

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

25 (3) forward to the appropriate tribunal in the

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1 county in this state in which the obligee who is an individual
2 or the obligor resides, or in which the obligor's property is
3 believed to be located, all documents concerning a proceeding
4 ~~[under]~~ pursuant to the Uniform Interstate Family Support Act
5 received from ~~[an initiating tribunal or the state information~~
6 ~~agency of the initiating state]~~ another state or a foreign
7 country; and

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

17 SECTION 23. Section 40-6A-311 NMSA 1978 (being Laws 1994,
18 Chapter 107, Section 311, as amended) is amended to read:

19 "40-6A-311. PLEADINGS AND ACCOMPANYING DOCUMENTS.--

20 [~~(a)~~] A. In a proceeding ~~[under]~~ pursuant to the
21 Uniform Interstate Family Support Act, a petitioner seeking to
22 establish a support order, to determine parentage of a child or
23 to register and modify a support order of a tribunal of another
24 state or a foreign country shall file a petition. Unless
25 otherwise ordered ~~[under]~~ pursuant to Section 40-6A-312 NMSA

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1 1978, the petition or accompanying documents shall provide, so
2 far as known, the name, residential address and social security
3 numbers of the obligor and the obligee or the parent and
4 alleged parent and the name, sex, residential address, social
5 security number and date of birth of each child for whose
6 benefit support is sought or whose parentage is to be
7 determined. Unless filed at the time of registration, the
8 petition shall be accompanied by a copy of any support order
9 known to have been issued by another tribunal. The petition
10 may include any other information that may assist in locating
11 or identifying the respondent.

12 ~~(b)~~ B. The petition shall specify the relief
13 sought. The petition and accompanying documents shall conform
14 substantially with the requirements imposed by the forms
15 mandated by federal law for use in cases filed by a support
16 enforcement agency."

17 **SECTION 24.** Section 40-6A-313 NMSA 1978 (being Laws 1994,
18 Chapter 107, Section 313, as amended) is amended to read:

19 "40-6A-313. COSTS AND FEES.--

20 ~~(a)~~ A. The petitioner may not be required to pay
21 a filing fee or other costs.

22 ~~(b)~~ B. If an obligee prevails, a responding
23 tribunal of this state may assess against an obligor filing
24 fees, reasonable ~~[attorney's]~~ attorney fees, other costs and
25 necessary travel and other reasonable expenses incurred by the

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1 obligee and the obligee's witnesses. The tribunal may not
2 assess fees, costs or expenses against the obligee or the
3 support enforcement agency of either the initiating or the
4 responding state or foreign country, except as provided by
5 other law. [~~Attorney's~~] Attorney fees may be taxed as costs
6 and may be ordered paid directly to the attorney, who may
7 enforce the order in the attorney's own name. Payment of
8 support owed to the obligee has priority over fees, costs and
9 expenses.

10 [~~(c)~~] C. The tribunal shall order the payment of
11 costs and reasonable [~~attorney's~~] attorney fees if it
12 determines that a hearing was requested primarily for delay.
13 In a proceeding [~~under~~] pursuant to Sections 40-6A-601 through
14 [~~40-6A-615~~] 40-6A-616 NMSA 1978, a hearing is presumed to have
15 been requested primarily for delay if a registered support
16 order is confirmed or enforced without change."

17 **SECTION 25.** Section 40-6A-314 NMSA 1978 (being Laws 1994,
18 Chapter 107, Section 314, as amended) is amended to read:

19 "40-6A-314. LIMITED IMMUNITY OF PETITIONER.--

20 [~~(a)~~] A. Participation by a petitioner in a
21 proceeding [~~under~~] pursuant to the Uniform Interstate Family
22 Support Act before a responding tribunal, whether in person, by
23 private attorney or through services provided by the support
24 enforcement agency, does not confer personal jurisdiction over
25 the petitioner in another proceeding.

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1 ~~[(b)]~~ B. A petitioner is not amenable to service of
2 civil process while physically present in this state to
3 participate in a proceeding ~~[under]~~ pursuant to the Uniform
4 Interstate Family Support Act.

5 ~~[(c)]~~ C. The immunity granted by this section does
6 not extend to civil litigation based on acts unrelated to a
7 proceeding ~~[under]~~ pursuant to the Uniform Interstate Family
8 Support Act committed by a party while present in this state to
9 participate in the proceeding."

10 **SECTION 26.** Section 40-6A-315 NMSA 1978 (being Laws 1994,
11 Chapter 107, Section 315) is amended to read:

12 "40-6A-315. NONPARENTAGE AS DEFENSE.--A party whose
13 parentage of a child has been previously determined by or
14 pursuant to law may not plead nonparentage as a defense to a
15 proceeding ~~[under]~~ pursuant to the Uniform Interstate Family
16 Support Act."

17 **SECTION 27.** Section 40-6A-316 NMSA 1978 (being Laws 1994,
18 Chapter 107, Section 316, as amended) is amended to read:

19 "40-6A-316. SPECIAL RULES OF EVIDENCE AND PROCEDURE.--

20 ~~[(a)]~~ A. The physical presence of a nonresident
21 party who is an individual in a tribunal of this state is not
22 required for the establishment, enforcement or modification of
23 a support order or the rendition of a judgment determining
24 parentage of a child.

25 ~~[(b)]~~ B. An affidavit, a document substantially

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1 complying with federally mandated forms, or a document
2 incorporated by reference in any of them that would not be
3 excluded under the hearsay rule if given in person, is
4 admissible in evidence if given under penalty of perjury by a
5 party or witness residing [~~in another~~] outside this state.

6 [~~(e)~~] C. A copy of the record of child support
7 payments certified as a true copy of the original by the
8 custodian of the record may be forwarded to a responding
9 tribunal. The copy is evidence of facts asserted in it and is
10 admissible to show whether payments were made.

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

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

22 [~~(f)~~] F. In a proceeding [~~under~~] pursuant to the
23 Uniform Interstate Family Support Act, a tribunal of this state
24 shall permit a party or witness residing [~~in another~~] outside
25 this state to be deposed or to testify by telephone,

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1 audiovisual means or other electronic means at a designated
2 tribunal or other location [~~in that state~~]. A tribunal of this
3 state shall cooperate with other tribunals [~~of other states~~] in
4 designating an appropriate location for the deposition or
5 testimony.

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

10 [~~(h)~~] H. A privilege against disclosure of
11 communications between spouses does not apply in a proceeding
12 [~~under~~] pursuant to the Uniform Interstate Family Support Act.

13 [~~(i)~~] I. The defense of immunity based on the
14 relationship of husband and wife or parent and child does not
15 apply in a proceeding [~~under~~] pursuant to the Uniform
16 Interstate Family Support Act.

17 [~~(j)~~] J. A voluntary acknowledgment of paternity,
18 certified as a true copy, is admissible to establish parentage
19 of the child."

20 **SECTION 28.** Section 40-6A-317 NMSA 1978 (being Laws 1994,
21 Chapter 107, Section 317, as amended) is amended to read:

22 "40-6A-317. COMMUNICATIONS BETWEEN TRIBUNALS.--A tribunal
23 of this state may communicate with a tribunal [~~of another~~]
24 outside this state [~~or foreign country or political~~
25 ~~subdivision~~] in a record or by telephone, electronic mail or

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1 other means to obtain information concerning the laws, the
2 legal effect of a judgment, decree or order of that tribunal
3 and the status of a proceeding [~~in the other state or foreign~~
4 ~~country or political subdivision~~]. A tribunal of this state
5 may furnish similar information by similar means to a tribunal
6 [~~of another~~] outside this state [~~or foreign country or~~
7 ~~political subdivision~~]."

8 SECTION 29. Section 40-6A-318 NMSA 1978 (being Laws 1994,
9 Chapter 107, Section 318) is amended to read:

10 "40-6A-318. ASSISTANCE WITH DISCOVERY.--A tribunal of
11 this state may:

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

14 [~~(2)~~] B. upon request, compel a person over [~~whom~~]
15 which it has jurisdiction to respond to a discovery order
16 issued by a tribunal [~~of another~~] outside this state."

17 SECTION 30. Section 40-6A-319 NMSA 1978 (being Laws 1994,
18 Chapter 107, Section 319, as amended) is amended to read:

19 "40-6A-319. RECEIPT AND DISBURSEMENT OF PAYMENTS.--

20 [~~(a)~~] A. A support enforcement agency or tribunal
21 of this state shall disburse promptly any amounts received
22 pursuant to a support order, as directed by the order. The
23 agency or tribunal shall furnish to a requesting party or
24 tribunal of another state or a foreign country a certified
25 statement by the custodian of the record of the amounts and

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1 dates of all payments received.

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

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

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

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

19 **SECTION 31.** Section 40-6A-401 NMSA 1978 (being Laws 1994,
20 Chapter 107, Section 401, as amended) is amended to read:

21 "40-6A-401. [~~PETITION TO ESTABLISH~~] ESTABLISHMENT OF
22 SUPPORT ORDER.--

23 [~~(a)~~] A. If a support order entitled to recognition
24 [~~under~~] pursuant to the Uniform Interstate Family Support Act
25 has not been issued, a responding tribunal of this state with

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1 personal jurisdiction over the parties may issue a support
2 order if:

3 (1) the individual seeking the order resides
4 [~~in another~~] outside this state; or

5 (2) the support enforcement agency seeking the
6 order is located [~~in another~~] outside this state.

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

10 (1) a presumed father of the child;

11 (2) petitioning to have his paternity
12 adjudicated;

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

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

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

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

21 (7) the mother of the child; or

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

25 [~~(c)~~] C. Upon finding, after notice and opportunity

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1 to be heard, that an obligor owes a duty of support, the
2 tribunal shall issue a support order directed to the obligor
3 and may issue other orders pursuant to Section 40-6A-305 NMSA
4 1978."

5 SECTION 32. A new Section 40-6A-402 NMSA 1978 is enacted
6 to read:

7 "40-6A-402. [NEW MATERIAL] PROCEEDING TO DETERMINE
8 PARENTAGE.--A tribunal of this state authorized to determine
9 parentage of a child may serve as a responding tribunal in a
10 proceeding to determine parentage of a child brought pursuant
11 to the Uniform Interstate Family Support Act or a law or
12 procedure substantially similar to that act."

13 SECTION 33. Section 40-6A-502 NMSA 1978 (being Laws 1997,
14 Chapter 9, Section 12, as amended) is amended to read:

15 "40-6A-502. EMPLOYER'S COMPLIANCE WITH INCOME-WITHHOLDING
16 ORDER OF ANOTHER STATE.--

17 [~~(a)~~] A. Upon receipt of an income-withholding
18 order, the obligor's employer shall immediately provide a copy
19 of the order to the obligor.

20 [~~(b)~~] B. The employer shall treat an income-
21 withholding order issued in another state that appears regular
22 on its face as if it had been issued by a tribunal of this
23 state.

24 [~~(c)~~] C. Except as otherwise provided in Subsection
25 [~~(d)~~] D of this section and Section 40-6A-503 NMSA 1978, the

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1 employer shall withhold and distribute the funds as directed in
2 the withholding order by complying with terms of the order that
3 specify:

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

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

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

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

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

18 [~~(d)~~] D. An employer shall comply with the law of
19 the state of the obligor's principal place of employment for
20 withholding from income with respect to:

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

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

25 (3) the times within which the employer shall

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1 implement the withholding order and forward the child-support
2 payment."

3 SECTION 34. Section 40-6A-504 NMSA 1978 (being Laws 1997,
4 Chapter 9, Section 14) is amended to read:

5 "40-6A-504. IMMUNITY FROM CIVIL LIABILITY.--An employer
6 [~~who~~] that complies with an income-withholding order issued in
7 another state in accordance with [~~this article~~] Sections
8 40-6A-501 through 40-6A-507 NMSA 1978 is not subject to civil
9 liability to an individual or agency with regard to the
10 employer's withholding of child support from the obligor's
11 income."

12 SECTION 35. Section 40-6A-505 NMSA 1978 (being Laws 1997,
13 Chapter 9, Section 15) is amended to read:

14 "40-6A-505. PENALTIES FOR NONCOMPLIANCE.--An employer
15 [~~who~~] that willfully fails to comply with an income-withholding
16 order issued [~~by~~] in another state and received for enforcement
17 is subject to the same penalties that may be imposed for
18 noncompliance with an order issued by a tribunal of this
19 state."

20 SECTION 36. Section 40-6A-506 NMSA 1978 (being Laws 1997,
21 Chapter 9, Section 16, as amended) is amended to read:

22 "40-6A-506. CONTEST BY OBLIGOR.--
23 [~~(a)~~] A. An obligor may contest the validity or
24 enforcement of an income-withholding order issued in another
25 state and received directly by an employer in this state by

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1 registering the order in a tribunal of this state and filing a
2 contest to that order as provided in Sections 40-6A-601 through
3 [~~40-6A-615~~] 40-6A-616 NMSA 1978, or otherwise contesting the
4 order in the same manner as if the order had been issued by a
5 tribunal of this state.

6 [~~(b)~~] B. The obligor shall give notice of the
7 contest to:

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

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

12 (3) the person designated to receive payments
13 in the income-withholding order or, if no person is designated,
14 to the obligee."

15 **SECTION 37.** Section 40-6A-507 NMSA 1978 (being Laws 1997,
16 Chapter 9, Section 17, as amended) is amended to read:

17 "40-6A-507. ADMINISTRATIVE ENFORCEMENT OF ORDERS.--

18 [~~(a)~~] A. A party or support enforcement agency
19 seeking to enforce a support order or an income-withholding
20 order, or both, issued [~~by a tribunal of~~] in another state, or
21 a foreign support order may send the documents required for
22 registering the order to a support enforcement agency of this
23 state.

24 [~~(b)~~] B. Upon receipt of the documents, the support
25 enforcement agency, without initially seeking to register the

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1 order, shall consider and, if appropriate, use any
2 administrative procedure authorized by the law of this state to
3 enforce a support order or an income-withholding order, or
4 both. If the obligor does not contest administrative
5 enforcement, the order need not be registered. If the obligor
6 contests the validity or administrative enforcement of the
7 order, the support enforcement agency shall register the order
8 pursuant to the Uniform Interstate Family Support Act."

9 SECTION 38. Section 40-6A-601 NMSA 1978 (being Laws 1994,
10 Chapter 107, Section 601, as amended) is amended to read:

11 "40-6A-601. REGISTRATION OF ORDER FOR ENFORCEMENT.--A
12 support order or income-withholding order issued [~~by a tribunal~~
13 ~~of~~] in another state or a foreign support order may be
14 registered in this state for enforcement."

15 SECTION 39. Section 40-6A-602 NMSA 1978 (being Laws 1994,
16 Chapter 107, Section 602, as amended) is amended to read:

17 "40-6A-602. PROCEDURE TO REGISTER ORDER FOR
18 ENFORCEMENT.--

19 [~~a~~] A. Except as otherwise provided in Section
20 40-6A-706 NMSA 1978, a support order or income-withholding
21 order of another state or a foreign support order may be
22 registered in this state by sending the following records [~~and~~
23 ~~information~~] to the appropriate tribunal in this state:

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

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

4 (3) a sworn statement by the person requesting
5 registration or a certified statement by the custodian of the
6 records showing the amount of any arrearage;

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

8 [~~(i)~~] (a) the obligor's address and
9 social security number;

10 [~~(ii)~~] (b) the name and address of the
11 obligor's employer and any other source of income of the
12 obligor; and

13 [~~(iii)~~] (c) a description and the
14 location of property of the obligor in this state not exempt
15 from execution; and

16 (5) except as otherwise provided in Section
17 40-6A-312 NMSA 1978, the name and address of the obligee and,
18 if applicable, the person to whom support payments are to be
19 remitted.

20 [~~(b)~~] B. On receipt of a request for registration,
21 the registering tribunal shall cause the order to be filed as
22 [~~a foreign judgment~~] an order of a tribunal of another state or
23 as a foreign support order, together with one copy of the
24 documents and information, regardless of their form.

25 [~~(c)~~] C. A petition or comparable pleading seeking

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1 a remedy that must be affirmatively sought under other law of
2 this state may be filed at the same time as the request for
3 registration or later. The pleading shall specify the grounds
4 for the remedy sought.

5 ~~(d)~~ D. If two or more orders are in effect, the
6 person requesting registration shall:

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

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

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

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

20 **SECTION 40.** Section 40-6A-603 NMSA 1978 (being Laws 1994,
21 Chapter 107, Section 603) is amended to read:

22 "40-6A-603. EFFECT OF REGISTRATION FOR ENFORCEMENT.--

23 ~~(a)~~ A. A support order or income-withholding
24 order issued in another state or a foreign support order is
25 registered when the order is filed in the registering tribunal

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1 of this state.

2 [~~(b)~~] B. A registered support order issued in
3 another state or a foreign country is enforceable in the same
4 manner and is subject to the same procedures as an order issued
5 by a tribunal of this state.

6 [~~(c)~~] C. Except as otherwise provided in [~~this~~
7 ~~article~~] Sections 40-6A-601 through 40-6A-616 NMSA 1978, a
8 tribunal of this state shall recognize and enforce, but may not
9 modify, a registered support order if the issuing tribunal had
10 jurisdiction."

11 SECTION 41. Section 40-6A-604 NMSA 1978 (being Laws 1994,
12 Chapter 107, Section 604, as amended) is amended to read:

13 "40-6A-604. CHOICE OF LAW.--

14 [~~(a)~~] A. Except as otherwise provided in Subsection
15 [~~(d)~~] D of this section, the law of the issuing state or
16 foreign country governs:

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

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

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

24 [~~(b)~~] B. In a proceeding for arrears under a
25 registered support order, the statute of limitation of this

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1 state or of the issuing state or foreign country, whichever is
2 longer, applies.

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

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

15 **SECTION 42.** Section 40-6A-605 NMSA 1978 (being Laws 1994,
16 Chapter 107, Section 605, as amended) is amended to read:

17 "40-6A-605. NOTICE OF REGISTRATION OF ORDER.--

18 [~~(a)~~] A. When a support order or income-withholding
19 order issued in another state or a foreign support order is
20 registered, the registering tribunal of this state shall notify
21 the nonregistering party. The notice shall be accompanied by a
22 copy of the registered order and the documents and relevant
23 information accompanying the order.

24 [~~(b)~~] B. A notice shall inform the nonregistering
25 party:

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

4 (2) that a hearing to contest the validity or
5 enforcement of the registered order must be requested within
6 twenty days after notice unless the registered order is
7 pursuant to Section 40-6A-707 NMSA 1978;

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

14 (4) of the amount of any alleged arrearage.

15 [~~(c)~~] C. If the registering party asserts that two
16 or more orders are in effect, a notice shall also:

17 (1) identify the two or more orders and the
18 order alleged by the registering [~~person~~] party to be the
19 controlling order and the consolidated arrears, if any;

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

22 (3) state that the procedures provided in
23 Subsection [~~(b)~~] B of this section apply to the determination
24 of which is the controlling order; and

25 (4) state that failure to contest the validity

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1 or enforcement of the order alleged to be the controlling order
2 in a timely manner may result in confirmation that the order is
3 the controlling order.

4 [~~(d)~~] D. Upon registration of an income-withholding
5 order for enforcement, the support enforcement agency or the
6 registering tribunal shall notify the obligor's employer."

7 **SECTION 43.** Section 40-6A-606 NMSA 1978 (being Laws 1994,
8 Chapter 107, Section 606, as amended) is amended to read:

9 "40-6A-606. PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT
10 OF REGISTERED SUPPORT ORDER.--

11 [~~(a)~~] A. A nonregistering party seeking to contest
12 the validity or enforcement of a registered support order in
13 this state shall request a hearing within [~~twenty days after~~
14 ~~notice of the registration~~] the time required by Section
15 40-6A-605 NMSA 1978. The nonregistering party may seek to
16 vacate the registration, to assert any defense to an allegation
17 of noncompliance with the registered support order or to
18 contest the remedies being sought or the amount of any alleged
19 arrearage pursuant to Section 40-6A-607 NMSA 1978.

20 [~~(b)~~] B. If the nonregistering party fails to
21 contest the validity or enforcement of the registered support
22 order in a timely manner, the order is confirmed by operation
23 of law.

24 [~~(c)~~] C. If a nonregistering party requests a
25 hearing to contest the validity or enforcement of the

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1 registered support order, the registering tribunal shall
2 schedule the matter for hearing and give notice to the parties
3 of the date, time and place of the hearing."

4 SECTION 44. Section 40-6A-607 NMSA 1978 (being Laws 1994,
5 Chapter 107, Section 607, as amended) is amended to read:

6 "40-6A-607. CONTEST OF REGISTRATION OR ENFORCEMENT.--

7 [~~a~~] A. A party contesting the validity or
8 enforcement of a registered support order or seeking to vacate
9 the registration has the burden of proving one or more of the
10 following defenses:

- 11 (1) the issuing tribunal lacked personal
- 12 jurisdiction over the contesting party;
- 13 (2) the order was obtained by fraud;
- 14 (3) the order has been vacated, suspended or
- 15 modified by a later order;
- 16 (4) the issuing tribunal has stayed the order
- 17 pending appeal;
- 18 (5) there is a defense under the law of this
- 19 state to the remedy sought;
- 20 (6) full or partial payment has been made;
- 21 (7) the statute of limitation under Section
- 22 40-6A-604 NMSA 1978 precludes enforcement of some or all of the
- 23 alleged arrearage; or
- 24 (8) the alleged controlling order is not the
- 25 controlling order.

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1 ~~[(b)]~~ B. If a party presents evidence establishing
2 a full or partial defense under Subsection ~~[(a)]~~ A of this
3 section, a tribunal may stay enforcement of ~~[the]~~ a registered
4 support order, continue the proceeding to permit production of
5 additional relevant evidence and issue other appropriate
6 orders. An uncontested portion of the registered support order
7 may be enforced by all remedies available under the law of this
8 state.

9 ~~[(c)]~~ C. If the contesting party does not establish
10 a defense under Subsection ~~[(a)]~~ A of this section to the
11 validity or enforcement of ~~[the]~~ a registered support order,
12 the registering tribunal shall issue an order confirming the
13 order."

14 **SECTION 45.** Section 40-6A-608 NMSA 1978 (being Laws 1994,
15 Chapter 107, Section 608) is amended to read:

16 "40-6A-608. CONFIRMED ORDER.--Confirmation of a
17 registered support order, whether by operation of law or after
18 notice and hearing, precludes further contest of the order with
19 respect to any matter that could have been asserted at the time
20 of registration."

21 **SECTION 46.** Section 40-6A-609 NMSA 1978 (being Laws 1994,
22 Chapter 107, Section 609) is amended to read:

23 "40-6A-609. PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF
24 ANOTHER STATE FOR MODIFICATION.--A party or support enforcement
25 agency seeking to modify, or to modify and enforce, a child

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1 support order issued in another state shall register that order
2 in this state in the same manner provided in [~~Part A of this~~
3 ~~article~~] Sections 40-6A-601 through 40-6A-608 NMSA 1978 if the
4 order has not been registered. A petition for modification may
5 be filed at the same time as a request for registration, or
6 later. The pleading [~~must~~] shall specify the grounds for
7 modification."

8 SECTION 47. Section 40-6A-610 NMSA 1978 (being Laws 1994,
9 Chapter 107, Section 610, as amended) is amended to read:

10 "40-6A-610. EFFECT OF REGISTRATION FOR MODIFICATION.--
11 A tribunal of this state may enforce a child support order of
12 another state registered for purposes of modification, in the
13 same manner as if the order had been issued by a tribunal of
14 this state, but the registered support order may be modified
15 only if the requirements of [~~Sections~~] Section 40-6A-611 or
16 40-6A-613 [~~and 40-6A-615~~] NMSA 1978 have been met."

17 SECTION 48. Section 40-6A-611 NMSA 1978 (being Laws 1994,
18 Chapter 107, Section 611, as amended) is amended to read:

19 "40-6A-611. MODIFICATION OF CHILD-SUPPORT ORDER OF
20 ANOTHER STATE.--

21 [~~(a)~~] A. If Section 40-6A-613 NMSA 1978 does not
22 apply, [~~except as otherwise provided in Section 40-6A-615 NMSA~~
23 ~~1978~~] upon petition, a tribunal of this state may modify a
24 child-support order issued in another state that is registered
25 in this state if, after notice and hearing, the tribunal finds

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1 that:

2 (1) the following requirements are met:

3 [~~(i)~~] (a) neither the child, nor the
4 obligee who is an individual nor the obligor resides in the
5 issuing state;

6 [~~(ii)~~] (b) a petitioner who is a
7 nonresident of this state seeks modification; and

8 [~~(iii)~~] (c) the respondent is subject to
9 the personal jurisdiction of the tribunal of this state; or

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

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

22 [~~(c)~~ Except as otherwise provided in Section
23 40-6A-615 NMSA 1978]

24 C. A tribunal of this state may not modify any
25 aspect of a child-support order that may not be modified under

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1 the law of the issuing state, including the duration of the
2 obligation of support. If two or more tribunals have issued
3 child-support orders for the same obligor and same child, the
4 order that controls and shall be so recognized under Section
5 40-6A-207 NMSA 1978 establishes the aspects of the support
6 order which are nonmodifiable.

7 [~~(d)~~] D. In a proceeding to modify a child-support
8 order, the law of the state that is determined to have issued
9 the initial controlling order governs the duration of the
10 obligation of support. The obligor's fulfillment of the duty
11 of support established by that order precludes imposition of
12 further obligation of support by a tribunal of this state.

13 [~~(e)~~] E. On issuance of an order by a tribunal of
14 this state modifying a child-support order issued in another
15 state, the tribunal of this state becomes the tribunal having
16 continuing, exclusive jurisdiction.

17 F. Notwithstanding Subsections A through E of this
18 section and Subsection B of Section 40-6A-201 NMSA 1978, a
19 tribunal of this state retains jurisdiction to modify an order
20 issued by a tribunal of this state if:

- 21 (1) one party resides in another state; and
22 (2) the other party resides outside the United
23 States."

24 SECTION 49. Section 40-6A-612 NMSA 1978 (being Laws 1994,
25 Chapter 107, Section 612, as amended) is amended to read:

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1 "40-6A-612. RECOGNITION OF ORDER MODIFIED IN ANOTHER
2 STATE.--If a child-support order issued by a tribunal of this
3 state is modified by a tribunal of another state [~~which~~] that
4 assumed jurisdiction pursuant to the Uniform Interstate Family
5 Support Act, a tribunal of this state:

6 [~~(1)~~] A. may enforce its order that was modified
7 only as to arrears and interest accruing before the
8 modification;

9 [~~(2)~~] B. may provide appropriate relief for
10 violations of its order [~~which~~] that occurred before the
11 effective date of the modification; and

12 [~~(3)~~] C. shall recognize the modifying order of the
13 other state, upon registration, for the purpose of
14 enforcement."

15 **SECTION 50.** Section 40-6A-613 NMSA 1978 (being Laws 1997,
16 Chapter 9, Section 21) is amended to read:

17 "40-6A-613. JURISDICTION TO MODIFY CHILD-SUPPORT ORDER OF
18 ANOTHER STATE WHEN INDIVIDUAL PARTIES RESIDE IN THIS STATE.--

19 [~~(a)~~] A. If all of the parties who are individuals
20 reside in this state and the child does not reside in the
21 issuing state, a tribunal of this state has jurisdiction to
22 enforce and to modify the issuing state's child-support order
23 in a proceeding to register that order.

24 [~~(b)~~] B. A tribunal of this state exercising
25 jurisdiction under this section shall apply the provisions of

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1 ~~[Articles 1 and 2 and this article of the Uniform Interstate~~
2 ~~Family Support Act]~~ Sections 40-6A-101 through 40-6A-211 and
3 40-6A-601 through 40-6A-616 NMSA 1978 and the procedural and
4 substantive law of this state to the proceeding for enforcement
5 or modification. ~~[Articles 3, 4, 5, 7 and 8 of the Uniform~~
6 ~~Interstate Family Support Act]~~ Sections 40-6A-301 through
7 40-6A-507 and 40-6A-701 through 40-6A-802 NMSA 1978 do not
8 apply."

9 SECTION 51. Section 40-6A-615 NMSA 1978 (being Laws 2005,
10 Chapter 166, Section 43) is amended to read:

11 "40-6A-615. JURISDICTION TO MODIFY CHILD-SUPPORT ORDER OF
12 FOREIGN COUNTRY ~~[OR POLITICAL SUBDIVISION]~~.--

13 ~~[(a)]~~ A. Except as otherwise provided in Section
14 40-6A-711 NMSA 1978, if a foreign country ~~[or political~~
15 ~~subdivision that is a state will not or may not modify its]~~
16 lacks or refuses to exercise jurisdiction to modify its child-
17 support order pursuant to its laws, a tribunal of this state
18 may assume jurisdiction to modify the child-support order and
19 bind all individuals subject to the personal jurisdiction of
20 the tribunal whether or not the consent to modification of a
21 child-support order otherwise required of the individual
22 pursuant to Section 40-6A-611 NMSA 1978 has been given or
23 whether the individual seeking modification is a resident of
24 this state or of the foreign country. ~~[or political subdivision~~

25 ~~(b)]~~ B. An order issued by a tribunal of this state

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1 modifying a foreign child-support order pursuant to this
2 section is the controlling order."

3 SECTION 52. A new Section 40-6A-616 NMSA 1978 is enacted
4 to read:

5 "40-6A-616. [NEW MATERIAL] PROCEDURE TO REGISTER
6 CHILD-SUPPORT ORDER OF FOREIGN COUNTRY FOR MODIFICATION.--A
7 party or support enforcement agency seeking to modify, or to
8 modify and enforce, a foreign child-support order not pursuant
9 to the convention may register that order in this state
10 pursuant to Sections 40-6A-601 through 40-6A-608 NMSA 1978 if
11 the order has not been registered. A petition for modification
12 may be filed at the same time as a request for registration or
13 at another time. The petition shall specify the grounds for
14 modification."

15 SECTION 53. Section 40-6A-701 NMSA 1978 (being Laws 1994,
16 Chapter 107, Section 701, as amended) is repealed and a new
17 Section 40-6A-701 NMSA 1978 is enacted to read:

18 "40-6A-701. [NEW MATERIAL] DEFINITIONS.--As used in
19 Sections 40-6A-701 through 40-6A-713 NMSA 1978:

20 A. "application" means a request pursuant to the
21 convention by an obligee or obligor, or on behalf of a child,
22 made through a central authority for assistance from another
23 central authority;

24 B. "central authority" means the entity designated
25 by the United States or a foreign country described in

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1 Paragraph (4) of Subsection E of Section 40-6A-102 NMSA 1978 to
2 perform the functions specified in the convention;

3 C. "convention child-support order" means a
4 child-support order of a tribunal of a foreign country
5 described in Paragraph (4) of Subsection E of Section 40-6A-102
6 NMSA 1978;

7 D. "convention support order" means a support order
8 of a tribunal of a foreign country described in Paragraph (4)
9 of Subsection E of Section 40-6A-102 NMSA 1978;

10 E. "direct request" means a petition filed by an
11 individual in a tribunal of this state in a proceeding
12 involving an obligee, obligor or child residing outside the
13 United States;

14 F. "foreign central authority" means the entity
15 designated by a foreign country described in Paragraph (4) of
16 Subsection E of Section 40-6A-102 NMSA 1978 to perform the
17 functions specified in the convention;

18 G. "foreign support agreement":

19 (1) means an agreement for support in a record
20 that:

21 (a) is enforceable as a support order in
22 the country of origin;

23 (b) has been: 1) formally drawn up or
24 registered as an authentic instrument by a foreign tribunal; or
25 2) authenticated by or concluded, registered or filed with a

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1 foreign tribunal; and

2 (c) may be reviewed and modified by a
3 foreign tribunal; and

4 (2) includes a maintenance arrangement or
5 authentic instrument pursuant to the convention; and

6 H. "United States central authority" means the
7 secretary of the United States department of health and human
8 services."

9 SECTION 54. A new Section 40-6A-702 NMSA 1978 is enacted
10 to read:

11 "40-6A-702. [NEW MATERIAL] APPLICABILITY.--Sections
12 40-6A-701 through 40-6A-713 NMSA 1978 apply only to a support
13 proceeding pursuant to the convention. In such a proceeding,
14 if a provision of Sections 40-6A-701 through 40-6A-713 NMSA
15 1978 is inconsistent with Sections 40-6A-101 through 40-6A-616
16 NMSA 1978, the provisions of Sections 40-6A-701 through
17 40-6A-713 NMSA 1978 control."

18 SECTION 55. A new Section 40-6A-703 NMSA 1978 is enacted
19 to read:

20 "40-6A-703. [NEW MATERIAL] RELATIONSHIP OF HUMAN SERVICES
21 DEPARTMENT TO UNITED STATES CENTRAL AUTHORITY. The human
22 services department of this state is recognized as the agency
23 designated by the United States central authority to perform
24 specific functions pursuant to the convention."

25 SECTION 56. A new Section 40-6A-704 NMSA 1978 is enacted

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1 to read:

2 "40-6A-704. [NEW MATERIAL] INITIATION BY HUMAN SERVICES
3 DEPARTMENT OF SUPPORT PROCEEDING UNDER CONVENTION.--

4 A. In a support proceeding pursuant to Sections
5 40-6A-701 through 40-6A-713 NMSA 1978, the human services
6 department of this state shall:

- 7 (1) transmit and receive applications; and
- 8 (2) initiate or facilitate the institution of
9 a proceeding regarding an application in a tribunal of this
10 state.

11 B. The following support proceedings are available
12 to an obligee pursuant to the convention:

- 13 (1) recognition or recognition and enforcement
14 of a foreign support order;
- 15 (2) enforcement of a support order issued or
16 recognized in this state;
- 17 (3) establishment of a support order if there
18 is no existing order, including, if necessary, determination of
19 parentage of a child;
- 20 (4) establishment of a support order if
21 recognition of a foreign support order is refused pursuant to
22 Paragraph (2), (4) or (9) of Subsection B of Section 40-6A-708
23 NMSA 1978;
- 24 (5) modification of a support order of a
25 tribunal of this state; and

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1 (6) modification of a support order of a
2 tribunal of another state or a foreign country.

3 C. The following support proceedings are available
4 pursuant to the convention to an obligor against which there is
5 an existing support order:

6 (1) recognition of an order suspending or
7 limiting enforcement of an existing support order of a tribunal
8 of this state;

9 (2) modification of a support order of a
10 tribunal of this state; and

11 (3) modification of a support order of a
12 tribunal of another state or a foreign country.

13 D. A tribunal of this state may not require
14 security, bond or deposit, however described, to guarantee the
15 payment of costs and expenses in proceedings pursuant to the
16 convention."

17 SECTION 57. A new Section 40-6A-705 NMSA 1978 is enacted
18 to read:

19 "40-6A-705. [NEW MATERIAL] DIRECT REQUEST.--

20 A. A petitioner may file a direct request seeking
21 establishment or modification of a support order or
22 determination of parentage of a child. In the proceeding, the
23 law of this state applies.

24 B. A petitioner may file a direct request seeking
25 recognition and enforcement of a support order or foreign

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1 support agreement. In the proceeding, Sections 40-6A-706
2 through 40-6A-713 NMSA 1978 apply.

3 C. In a direct request for recognition and
4 enforcement of a convention support order or foreign support
5 agreement:

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

8 (2) an obligee or obligor that in the issuing
9 country has benefited from free legal assistance is entitled to
10 benefit, at least to the same extent, from any free legal
11 assistance provided for by the law of this state under the same
12 circumstances.

13 D. A petitioner filing a direct request is not
14 entitled to assistance from the human services department of
15 this state.

16 E. Sections 40-6A-701 through 40-6A-713 NMSA 1978
17 do not prevent the application of laws of this state that
18 provide simplified, more expeditious rules regarding a direct
19 request for recognition and enforcement of a foreign support
20 order or foreign support agreement."

21 SECTION 58. A new Section 40-6A-706 NMSA 1978 is enacted
22 to read:

23 "40-6A-706. [NEW MATERIAL] REGISTRATION OF CONVENTION
24 SUPPORT ORDER.--

25 A. Except as otherwise provided in Sections

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1 40-6A-701 through 40-6A-713 NMSA 1978, a party who is an
2 individual or a support enforcement agency seeking recognition
3 of a convention support order shall register the order in this
4 state as provided in Sections 40-6A-601 through 40-6A-616 NMSA
5 1978.

6 B. Notwithstanding Section 40-6A-311 NMSA 1978 and
7 Subsection A of Section 40-6A-602 NMSA 1978, a request for
8 registration of a convention support order must be accompanied
9 by:

10 (1) a complete text of the support order or an
11 abstract or extract of the support order drawn up by the
12 issuing foreign tribunal, which may be in the form recommended
13 by The Hague Conference on Private International Law;

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

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

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

25 (5) a record showing a requirement for

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1 automatic adjustment of the amount of support, if any, and the
2 information necessary to make the appropriate calculations; and

3 (6) if necessary, a record showing the extent
4 to which the applicant received free legal assistance in the
5 issuing country.

6 C. A request for registration of a convention
7 support order may seek recognition and partial enforcement of
8 the order.

9 D. A tribunal of this state may vacate the
10 registration of a convention support order without the filing
11 of a contest pursuant to Section 40-6A-707 NMSA 1978 only if,
12 acting on its own motion, the tribunal finds that recognition
13 and enforcement of the order would be manifestly incompatible
14 with public policy.

15 E. The tribunal shall promptly notify the parties
16 of the registration or the order vacating the registration of a
17 convention support order."

18 SECTION 59. A new Section 40-6A-707 NMSA 1978 is enacted
19 to read:

20 "40-6A-707. [NEW MATERIAL] CONTEST OF REGISTERED
21 CONVENTION SUPPORT ORDER.--

22 A. Except as otherwise provided in Sections
23 40-6A-701 through 40-6A-713 NMSA 1978, Sections 40-6A-605
24 through 40-6A-608 NMSA 1978 apply to a contest of a registered
25 convention support order.

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1 B. A party contesting a registered convention
2 support order shall file a contest not later than thirty days
3 after notice of the registration, but if the contesting party
4 does not reside in the United States, the contest must be filed
5 not later than sixty days after notice of the registration.

6 C. If the nonregistering party fails to contest the
7 registered convention support order by the time specified in
8 Subsection B of this section, the order is enforceable.

9 D. A contest of a registered convention support
10 order may be based only on grounds set forth in Section
11 40-6A-708 NMSA 1978. The contesting party bears the burden of
12 proof.

13 E. In a contest of a registered convention support
14 order, a tribunal of this state:

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

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

18 F. A tribunal of this state deciding a contest of a
19 registered convention support order shall promptly notify the
20 parties of its decision.

21 G. A challenge or appeal, if any, does not stay the
22 enforcement of a convention support order unless there are
23 exceptional circumstances."

24 **SECTION 60.** A new Section 40-6A-708 NMSA 1978 is enacted
25 to read:

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1 "40-6A-708. [NEW MATERIAL] RECOGNITION AND ENFORCEMENT OF
2 REGISTERED CONVENTION SUPPORT ORDER.--

3 A. Except as otherwise provided in Subsection B of
4 this section, a tribunal of this state shall recognize and
5 enforce a registered convention support order.

6 B. The following grounds are the only grounds on
7 which a tribunal of this state may refuse recognition and
8 enforcement of a registered convention support order:

9 (1) recognition and enforcement of the order
10 is manifestly incompatible with public policy, including the
11 failure of the issuing tribunal to observe minimum standards of
12 due process, which include notice and an opportunity to be
13 heard;

14 (2) the issuing tribunal lacked personal
15 jurisdiction consistent with the requirements of Section
16 40-6A-201 NMSA 1978 if those requirements were applied to the
17 foreign country where the tribunal is located;

18 (3) the order is not enforceable in the
19 issuing foreign country;

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

22 (5) a record transmitted in accordance with
23 Section 40-6A-706 NMSA 1978 lacks authenticity or integrity;

24 (6) a proceeding between the same parties and
25 having the same purpose is pending before a tribunal of this

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1 state and that proceeding was the first to be filed;

2 (7) the order is incompatible with a more
3 recent support order involving the same parties and having the
4 same purpose if the more recent support order is entitled to
5 recognition and enforcement pursuant to Sections 40-6A-701
6 through 40-6A-713 NMSA 1978 in this state;

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

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

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

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

21 (10) the order was made in violation of
22 Section 40-6A-711 NMSA 1978.

23 C. If a tribunal of this state does not recognize a
24 convention support order pursuant to Paragraph (2), (4), (6) or
25 (9) of Subsection B of this section:

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1 (1) the tribunal may not dismiss the
2 proceeding without allowing a reasonable time for a party to
3 request the establishment of a new convention support order;
4 and

5 (2) the human services department of this
6 state shall take all appropriate measures to request a
7 child-support order for the obligee if the application for
8 recognition and enforcement was received pursuant to Section
9 40-6A-704 NMSA 1978."

10 SECTION 61. A new Section 40-6A-709 NMSA 1978 is enacted
11 to read:

12 "40-6A-709. [NEW MATERIAL] PARTIAL ENFORCEMENT.--If a
13 tribunal of this state does not recognize and enforce a
14 convention support order in its entirety, it shall enforce any
15 severable part of the order. An application or direct request
16 may seek recognition and partial enforcement of a convention
17 support order."

18 SECTION 62. A new Section 40-6A-710 NMSA 1978 is enacted
19 to read:

20 "40-6A-710. [NEW MATERIAL] FOREIGN SUPPORT AGREEMENT.--

21 A. Except as otherwise provided in Subsections C
22 and D of this section, a tribunal of this state shall recognize
23 and enforce a foreign support agreement registered in this
24 state.

25 B. An application or direct request for recognition

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1 and enforcement of a foreign support agreement must be
2 accompanied by:

3 (1) a complete text of the foreign support
4 agreement; and

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

8 C. A tribunal of this state may vacate the
9 registration of a foreign support agreement only if, acting on
10 its own motion, the tribunal finds that recognition and
11 enforcement would be manifestly incompatible with public
12 policy.

13 D. In a contest of a foreign support agreement, a
14 tribunal of this state may refuse recognition and enforcement
15 of the agreement if it finds:

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

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

20 (3) the agreement is incompatible with a
21 support order involving the same parties and having the same
22 purpose in this state, another state, or a foreign country if
23 the support order is entitled to recognition and enforcement
24 pursuant to Sections 40-6A-701 through 40-6A-713 NMSA 1978 in
25 this state; or

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1 (4) the record submitted pursuant to
2 Subsection B of this section lacks authenticity or integrity.

3 E. A proceeding for recognition and enforcement of
4 a foreign support agreement must be suspended during the
5 pendency of a challenge to or appeal of the agreement before a
6 tribunal of another state or a foreign country."

7 SECTION 63. A new Section 40-6A-711 NMSA 1978 is enacted
8 to read:

9 "40-6A-711. [NEW MATERIAL] MODIFICATION OF CONVENTION
10 CHILD-SUPPORT ORDER.--

11 A. A tribunal of this state may not modify a
12 convention child-support order if the obligee remains a
13 resident of the foreign country where the support order was
14 issued unless:

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

19 (2) the foreign tribunal lacks or refuses to
20 exercise jurisdiction to modify its support order or issue a
21 new support order.

22 B. If a tribunal of this state does not modify a
23 convention child-support order because the order is not
24 recognized in this state, Subsection C of Section 40-6A-708
25 NMSA 1978 applies."

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1 SECTION 64. A new Section 40-6A-712 NMSA 1978 is enacted
2 to read:

3 "40-6A-712. [NEW MATERIAL] PERSONAL INFORMATION--LIMIT ON
4 USE.--Personal information gathered or transmitted pursuant to
5 Sections 40-6A-701 through 40-6A-713 NMSA 1978 may be used only
6 for the purposes for which it was gathered or transmitted."

7 SECTION 65. A new Section 40-6A-713 NMSA 1978 is enacted
8 to read:

9 "40-6A-713. [NEW MATERIAL] RECORD IN ORIGINAL LANGUAGE--
10 ENGLISH TRANSLATION.--A record filed with a tribunal of this
11 state pursuant to Sections 40-6A-701 through 40-6A-713 NMSA
12 1978 must be in the original language and, if not in English,
13 must be accompanied by an English translation."

14 SECTION 66. Section 40-6A-801 NMSA 1978 (being Laws 1994,
15 Chapter 107, Section 801, as amended) is amended to read:

16 "40-6A-801. GROUNDS FOR RENDITION.--

17 [~~(a)~~] A. For purposes of [~~this article~~] Section
18 40-6A-802 NMSA 1978, "governor" includes an individual
19 performing the functions of governor or the executive authority
20 of a state covered by the Uniform Interstate Family Support
21 Act.

22 [~~(b)~~] B. The governor of this state may:

23 (1) demand that the governor of another state
24 surrender an individual found in the other state who is charged
25 criminally in this state with having failed to provide for the

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1 support of an obligee; or

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

6 [~~(c)~~] C. A provision for extradition of individuals
7 not inconsistent with the Uniform Interstate Family Support Act
8 applies to the demand even if the individual whose surrender is
9 demanded was not in the demanding state when the crime was
10 allegedly committed and has not fled therefrom."

11 **SECTION 67.** Section 40-6A-802 NMSA 1978 (being Laws 1994,
12 Chapter 107, Section 802, as amended) is amended to read:

13 "40-6A-802. CONDITIONS OF RENDITION.--

14 [~~(a)~~] A. Before making demand that the governor of
15 another state surrender an individual charged criminally in
16 this state with having failed to provide for the support of an
17 obligee, the governor of this state may require a prosecutor of
18 this state to demonstrate that at least sixty days previously
19 the obligee had initiated proceedings for support pursuant to
20 the Uniform Interstate Family Support Act or that the
21 proceeding would be of no avail.

22 [~~(b)~~] B. If, under the Uniform Interstate Family
23 Support Act or a law substantially similar to that act, the
24 governor of another state makes a demand that the governor of
25 this state surrender an individual charged criminally in that

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1 state with having failed to provide for the support of a child
2 or other individual to whom a duty of support is owed, the
3 governor may require a prosecutor to investigate the demand and
4 report whether a proceeding for support has been initiated or
5 would be effective. If it appears that a proceeding would be
6 effective but has not been initiated, the governor may delay
7 honoring the demand for a reasonable time to permit the
8 initiation of a proceeding.

9 [~~e~~] C. If a proceeding for support has been
10 initiated and the individual whose rendition is demanded
11 prevails, the governor may decline to honor the demand. If the
12 petitioner prevails and the individual whose rendition is
13 demanded is subject to a support order, the governor may
14 decline to honor the demand if the individual is complying with
15 the support order."

16 **SECTION 68. TEMPORARY PROVISION--RECOMPILATION.--**Section
17 40-6A-100 NMSA 1978 (being Laws 1994, Chapter 107, Section 902,
18 as amended) is recompiled as Section 40-6A-101 NMSA 1978.

19 **SECTION 69. APPLICABILITY.--**The provisions of this act
20 apply to proceedings begun on or after January 1, 2012 to
21 establish a support order, to determine parentage of a child or
22 to register, recognize, enforce or modify a prior support
23 order, determination or agreement, whenever issued or entered.

24 **SECTION 70. EFFECTIVE DATE.--**The effective date of the
25 provisions of this act is January 1, 2012.

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