

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 90

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

R. DAVID PEDERSON

FOR THE COURTS, CORRECTIONS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO FAMILY LAW; PROVIDING PROCEDURES FOR RECONCILIATION OF MULTIPLE CHILD-SUPPORT ORDERS; CLARIFYING PROCEDURES FOR INCOME-WITHHOLDING ORDERS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE UNIFORM INTERSTATE FAMILY SUPPORT ACT.

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

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

"40-6A-101. DEFINITIONS. -- As used in the Uniform Interstate Family Support Act:

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

Underscored material = new
[bracketed material] = delete

1 (2) "child-support order" means a support order for
2 a child, including a child who has attained the age of majority
3 under the law of the issuing state;

4 (3) "duty of support" means an obligation imposed or
5 imposable by law to provide support for a child, spouse or
6 former spouse, including an unsatisfied obligation to provide
7 support;

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

15 (5) "income" includes earnings or other periodic
16 entitlements to money from any source and any other property
17 subject to withholding for support under the law of this state;

18 (6) "income-withholding order" means an order or
19 other legal process directed to an obligor's employer or other
20 debtor to withhold support from the income of the obligor;

21 (7) "initiating state" means a state ~~in~~ from which
22 a proceeding is forwarded or in which a proceeding is filed for
23 forwarding to a responding state under the Uniform Interstate
24 Family Support Act or a law or procedure substantially similar
25 to that act, the Uniform Reciprocal Enforcement of Support Act

1 or the Revised Uniform Reciprocal Enforcement of Support Act ~~is~~
2 ~~filed for forwarding to a responding state~~;

3 (8) "initiating tribunal" means the authorized
4 tribunal in an initiating state;

5 (9) "issuing state" means the state in which a
6 tribunal issues a support order or renders a judgment
7 determining parentage;

8 (10) "issuing tribunal" means the tribunal that
9 issues a support order or renders a judgment determining
10 parentage;

11 (11) "law" includes decisional and statutory law and
12 rules and regulations having the force of law;

13 (12) "obligee" means:

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

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

22 (iii) an individual seeking a judgment
23 determining parentage of the individual's child;

24 (13) "obligor" means an individual or the estate of
25 a decedent:

1 (i) who owes or is alleged to owe a duty of
2 support;

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

5 (iii) who is liable under a support order;

6 (14) "register" means to record a support order or
7 judgment determining parentage in the appropriate tribunal of
8 this state;

9 (15) "registering tribunal" means a tribunal in
10 which a support order is registered;

11 (16) "responding state" means a state ~~[to]~~ in which
12 a proceeding is filed or to which a proceeding is forwarded for
13 filing from an initiating state under the Uniform Interstate
14 Family Support Act, a law or procedure substantially similar to
15 that act, the Uniform Reciprocal Enforcement of Support Act or
16 the Revised Uniform Reciprocal Enforcement of Support Act;

17 (17) "responding tribunal" means the authorized
18 tribunal in a responding state;

19 (18) "spousal support order" means a support order
20 for a spouse or former spouse of the obligor;

21 (19) "state" means a state of the United States, the
22 District of Columbia, ~~[the Commonwealth of]~~ Puerto Rico, the
23 United States Virgin Islands or any territory or insular
24 possession subject to the jurisdiction of the United States.

25 ~~[The term]~~ "State" includes an Indian tribe and ~~[includes]~~ a

1 foreign jurisdiction that has enacted a law or established
2 procedures for issuance and enforcement of support orders which
3 are substantially similar to the procedures under the Uniform
4 Interstate Family Support Act, the Uni form Reciprocal
5 Enforcement of Support Act or the Revised Uni form Reciprocal
6 Enforcement of Support Act;

7 (20) "support enforcement agency" means a public
8 official or agency authorized to seek:

9 (i) enforcement of support orders or laws
10 relating to the duty of support;

11 (ii) establishment or modification of child
12 support;

13 (iii) determination of parentage; or

14 (iv) to locate obligors or their assets;

15 (21) "support order" means a judgment, decree or
16 order, whether temporary, final or subject to modification, for
17 the benefit of a child, a spouse or a former spouse, which
18 provides for monetary support, health care, arrearages or
19 reimbursement, and may include related costs and fees, interest,
20 income withholding, attorney's fees and other relief; and

21 (22) "tribunal" means a court, administrative agency
22 or quasi-judicial entity authorized to establish, enforce or
23 modify support orders or to determine parentage. "

24 Section 2. Section 40-6A-102 NMSA 1978 (being Laws 1994,
25 Chapter 107, Section 102) is amended to read:

Underscored material = new
[bracketed material] = delete

1 "40-6A-102. [~~TRIBUNALS OF THIS~~] TRIBUNAL OF STATE. -- The
2 district courts are the tribunals of this state."

3 Section 3. Section 40-6A-203 NMSA 1978 (being Laws 1994,
4 Chapter 107, Section 203) is amended to read:

5 "40-6A-203. INITIATING AND RESPONDING TRIBUNAL OF [~~FHS~~]
6 STATE. -- Under the Uniform Interstate Family Support Act, a
7 tribunal of this state may serve as an initiating tribunal to
8 forward proceedings to another state and as a responding
9 tribunal for proceedings initiated in another state."

10 Section 4. Section 40-6A-205 NMSA 1978 (being Laws 1994,
11 Chapter 107, Section 205) is amended to read:

12 "40-6A-205. CONTINUING, EXCLUSIVE JURISDICTION. --

13 (a) A tribunal of this state issuing a support order
14 consistent with the law of this state has continuing, exclusive
15 jurisdiction over a child-support order:

16 (1) as long as this state remains the residence
17 of the obligor, the individual obligee or the child for whose
18 benefit the support order is issued; or

19 (2) until [~~each individual party has~~] all of
20 the parties who are individuals have filed written [~~consent~~]
21 consents with the tribunal of this state for a tribunal of
22 another state to modify the order and assume continuing,
23 exclusive jurisdiction.

24 (b) A tribunal of this state issuing a child-support
25 order consistent with the law of this state may not exercise its

1 continuing jurisdiction to modify the order if the order has
2 been modified by a tribunal of another state pursuant to a law
3 substantially similar to the Uniform Interstate Family Support
4 Act.

5 (c) If a child-support order of this state is
6 modified by a tribunal of another state pursuant to a law
7 substantially similar to the Uniform Interstate Family Support
8 Act, a tribunal of this state loses its continuing, exclusive
9 jurisdiction with regard to prospective enforcement of the order
10 issued in this state and may only:

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

13 (2) enforce nonmodifiable aspects of that
14 order; and

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

18 (d) A tribunal of this state shall recognize the
19 continuing, exclusive jurisdiction of a tribunal of another
20 state which has issued a child-support order pursuant to a law
21 substantially similar to the Uniform Interstate Family Support
22 Act.

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

Underscored material = new
[bracketed material] = delete

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

8 Section 5. Section 40-6A-207 NMSA 1978 (being Laws 1994,
9 Chapter 107, Section 207) is amended to read:

10 "40-6A-207. RECOGNITION OF ~~[CHILD-SUPPORT ORDERS]~~
11 CONTROLLING CHILD-SUPPORT ORDER --

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

16 (b) If a proceeding is brought under the Uniform
17 Interstate Family Support Act and ~~[one]~~ two or more child-
18 support orders have been issued ~~[in this]~~ by tribunals of this
19 state or another state with regard to ~~[an]~~ the same obligor and
20 [a] child, a tribunal of this state shall apply the following
21 rules in determining which order to recognize for purposes of
22 continuing, exclusive jurisdiction:

23 ~~[(1) if only one tribunal has issued a child~~
24 ~~support order, the order of that tribunal must be recognized;~~

25 ~~(2) if two or more tribunals have issued child~~

1 ~~support orders for the same obligor and child and~~

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

6 ~~[(3) if two or more tribunals have issued child~~
7 ~~support orders for the same obligor and child and]~~

8 (2) if more than one of the tribunals would
9 have continuing, exclusive jurisdiction under the Uniform
10 Interstate Family Support Act, an order issued by a tribunal in
11 the current home state of the child ~~[must be]~~ controls and must
12 be so recognized, but if an order has not been issued in the
13 current home state of the child, the order most recently issued
14 ~~[must be]~~ controls and must be so recognized; and

15 ~~[(4) if two or more tribunals have issued child~~
16 ~~support orders for the same obligor and child and]~~

17 (3) if none of the tribunals would have
18 continuing, exclusive jurisdiction under the Uniform Interstate
19 Family Support Act, the tribunal of this state ~~[may]~~ having
20 jurisdiction over the parties shall issue a child-support order,
21 which ~~[must be]~~ controls and must be so recognized.

22 (c) If two or more child-support orders have been
23 issued for the same obligor and child and if the obligor or the
24 individual obligee resides in this state, a party may request a
25 tribunal of this state to determine which order controls and

1 must be so recognized under Subsection (b) of this section. The
2 request must be accompanied by a certified copy of every support
3 order in effect. The requesting party shall give notice of the
4 request to each party whose rights may be affected by the
5 determination.

6 ~~[(b)]~~ (d) The tribunal that ~~[has issued an order~~
7 ~~recognized under subsection (a)]~~ issued the controlling order
8 under Subsection (a), (b) or (c) of this section is the tribunal
9 [having] that has continuing, exclusive jurisdiction under
10 Section 40-6A-205 NMSA 1978.

11 (e) A tribunal of this state that determines by
12 order the identity of the controlling order under Paragraph (1)
13 or (2) of Subsection (b) of this section or which issues a new
14 controlling order under Paragraph (3) of Subsection (b) of this
15 section shall state in that order the basis upon which the
16 tribunal made its determination.

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

Underscored material = new
[bracketed material] = delete

1 Section 6. Section 40-6A-303 NMSA 1978 (being Laws 1994,
2 Chapter 107, Section 303) is amended to read:

3 "40-6A-303. APPLICATION OF LAW OF ~~[THIS]~~ STATE. -- Except as
4 otherwise provided by the Uniform Interstate Family Support Act,
5 a responding tribunal of this state:

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

11 (2) shall determine the duty of support and the
12 amount payable in accordance with the law and support guidelines
13 of this state."

14 Section 7. Section 40-6A-304 NMSA 1978 (being Laws 1994,
15 Chapter 107, Section 304) is amended to read:

16 "40-6A-304. DUTIES OF INITIATING TRIBUNAL. --

17 (a) Upon the filing of a petition authorized by the
18 Uniform Interstate Family Support Act, an initiating tribunal of
19 this state shall forward three copies of the petition and its
20 accompanying documents:

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

23 (2) if the identity of the responding tribunal
24 is unknown, to the state information agency of the responding
25 state with a request that they be forwarded to the appropriate

Underscored material = new
[bracketed material] = delete

1 tribunal and that receipt be acknowledged.

2 (b) If a responding state has not enacted the
3 Uniform Interstate Family Support Act or a law or procedure
4 substantially similar to that act, a tribunal of this state may
5 issue a certificate or other document and make findings required
6 by the law of the responding state. If the responding state is
7 a foreign jurisdiction, the tribunal may specify the amount of
8 support sought and provide other documents necessary to satisfy
9 the requirements of the responding state."

10 Section 8. Section 40-6A-305 NMSA 1978 (being Laws 1994,
11 Chapter 107, Section 305) is amended to read:

12 "40-6A-305. DUTIES AND POWERS OF RESPONDING TRIBUNAL. --

13 (a) When a responding tribunal of this state
14 receives a petition or comparable pleading from an initiating
15 tribunal or directly pursuant to ~~[Section 301(c) of the Uniform~~
16 ~~Interstate Family Support Act]~~ Subsection (c) of Section
17 40-6A-301 NMSA 1978, it shall cause the petition or pleading to
18 be filed and notify the petitioner ~~[by first class mail]~~ where
19 and when it was filed.

20 (b) A responding tribunal of this state, to the
21 extent otherwise authorized by law, may do one or more of the
22 following:

23 (1) issue or enforce a support order, modify a
24 child-support order or render a judgment to determine parentage;

25 (2) order an obligor to comply with a support

- 1 order, specifying the amount and the manner of compliance;
- 2 (3) order income withholding;
- 3 (4) determine the amount of any arrearage and
- 4 specify a method of payment;
- 5 (5) enforce orders by civil or criminal
- 6 contempt, or both;
- 7 (6) set aside property for satisfaction of the
- 8 support order;
- 9 (7) place liens and order execution on the
- 10 obligor's property;
- 11 (8) order an obligor to keep the tribunal
- 12 informed of the obligor's current residential address, telephone
- 13 number, employer, address of employment and telephone number at
- 14 the place of employment;
- 15 (9) issue a bench warrant for an obligor who
- 16 has failed after proper notice to appear at a hearing ordered by
- 17 the tribunal and enter the bench warrant in any local and state
- 18 computer systems for criminal warrants;
- 19 (10) order the obligor to seek appropriate
- 20 employment by specified methods;
- 21 (11) award reasonable attorney's fees and other
- 22 fees and costs; and
- 23 (12) grant any other available remedy.
- 24 (c) A responding tribunal of this state shall
- 25 include in a support order issued under the Uniform Interstate

Underscored material = new
[bracketed material] = delete

1 Family Support Act, or in the documents accompanying the order,
2 the calculations on which the support order is based.

3 (d) A responding tribunal of this state may not
4 condition the payment of a support order issued under the
5 Uniform Interstate Family Support Act upon compliance by a party
6 with provisions for visitation.

7 (e) If a responding tribunal of this state issues an
8 order under the Uniform Interstate Family Support Act, the
9 tribunal shall send a copy of the order ~~[by first class mail]~~ to
10 the petitioner and the respondent and to the initiating
11 tribunal, if any."

12 Section 9. Section 40-6A-307 NMSA 1978 (being Laws 1994,
13 Chapter 107, Section 307) is amended to read:

14 "40-6A-307. DUTIES OF SUPPORT ENFORCEMENT AGENCY. --

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

18 (b) A support enforcement agency that is providing
19 services to the petitioner as appropriate shall:

20 (1) take all steps necessary to enable an
21 appropriate tribunal in this state or another state to obtain
22 jurisdiction over the respondent;

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

25 (3) make a reasonable effort to obtain all

Underscored material = new
[bracketed material] = delete

1 relevant information, including information as to income and
2 property of the parties;

3 (4) within two days, exclusive of Saturdays,
4 Sundays and legal holidays, after receipt of a written notice
5 from an initiating, responding or registering tribunal, send a
6 copy of the notice [~~by first class mail~~] to the petitioner;

7 (5) within two days, exclusive of Saturdays,
8 Sundays and legal holidays, after receipt of a written
9 communication from the respondent or the respondent's attorney,
10 send a copy of the communication [~~by first class mail~~] to the
11 petitioner; and

12 (6) notify the petitioner if jurisdiction over
13 the respondent cannot be obtained.

14 (c) The Uniform Interstate Family Support Act does
15 not create or negate a relationship of attorney and client or
16 other fiduciary relationship between a support enforcement
17 agency or the attorney for the agency and the individual being
18 assisted by the agency. "

19 Section 10. Section 40-6A-501 NMSA 1978 (being Laws 1994,
20 Chapter 107, Section 501) is amended to read:

21 "40-6A-501. [~~RECOGNITION~~] EMPLOYER'S RECEIPT OF
22 INCOME-WITHHOLDING ORDER OF ANOTHER STATE. -- [~~(a)~~] An
23 income-withholding order issued in another state may be sent ~~by~~
24 ~~first class mail~~] to the obligor's employer without first filing
25 a petition or comparable pleading or registering the order with

1 a tribunal of this state. ~~[Upon receipt of the order, the~~
2 ~~employer shall:~~

3 ~~(1) treat an income withholding order issued in~~
4 ~~another state which appears regular on its face as if it had~~
5 ~~been issued by a tribunal of this state;~~

6 ~~(2) immediately provide a copy of the order to~~
7 ~~the obligor; and~~

8 ~~(3) distribute the funds as directed in the~~
9 ~~withholding order.~~

10 ~~(b) An obligor may contest the validity or~~
11 ~~enforcement of an income withholding order issued in another~~
12 ~~state in the same manner as if the order had been issued by a~~
13 ~~tribunal of this state. Section 604 of the Uniform Interstate~~
14 ~~Family Support Act applies to the contest. The obligor shall~~
15 ~~give notice of the contest to any support enforcement agency~~
16 ~~providing services to the obligee and to:~~

17 ~~(1) the person or agency designated to receive~~
18 ~~payments in the income withholding order; or~~

19 ~~(2) if no person or agency is designated, the~~
20 ~~obligee.] "~~

21 Section 11. Section 40-6A-502 NMSA 1978 (being Laws 1994,
22 Chapter 107, Section 502) is repealed and a new Section
23 40-6A-502 NMSA 1978 is enacted to read:

24 "40-6A-502. [NEW MATERIAL] EMPLOYER'S COMPLIANCE WITH
25 INCOME-WITHOLDING ORDER OF ANOTHER STATE. --

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

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

7 (c) Except as otherwise provided in Subsection (d)
8 of this section and Section 40-6A-503 NMSA 1978 the employer
9 shall withhold and distribute the funds as directed in the
10 withholding order by complying with terms of the order that
11 specify:

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

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

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

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

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

Underscored material = new
[bracketed material] = delete

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

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

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

8 (3) the times within which the employer must
9 implement the withholding order and forward the child-support
10 payment. "

11 Section 12. A new section of the Uniform Interstate Family
12 Support Act, Section 40-6A-503 NMSA 1978, is enacted to read:

13 "40-6A-503. [NEW MATERIAL] COMPLIANCE WITH MULTIPLE
14 INCOME-WITHHOLDING ORDERS. --If an obligor's employer receives
15 multiple income-withholding orders with respect to the earnings
16 of the same obligor, the employer satisfies the terms of the
17 multiple orders if the employer complies with the law of the
18 state of the obligor's principal place of employment to
19 establish the priorities for withholding and allocating income
20 withheld for multiple child-support obligees. "

21 Section 13. A new section of the Uniform Interstate Family
22 Support Act, Section 40-6A-504 NMSA 1978, is enacted to read:

23 "40-6A-504. [NEW MATERIAL] IMMUNITY FROM CIVIL
24 LIABILITY. --An employer who complies with an income-withholding
25 order issued in another state in accordance with this article is

Underscored material = new
[bracketed material] = delete

1 not subject to civil liability to an individual or agency with
2 regard to the employer's withholding of child support from the
3 obligor's income."

4 Section 14. A new section of the Uniform Interstate Family
5 Support Act, Section 40-6A-505 NMSA 1978, is enacted to read:

6 "40-6A-505. [NEW MATERIAL] PENALTIES FOR NONCOMPLIANCE. --
7 An employer who willfully fails to comply with an income-
8 withholding order issued in another state and received for
9 enforcement is subject to the same penalties that may be imposed
10 for noncompliance with an order issued by a tribunal of this
11 state."

12 Section 15. A new section of the Uniform Interstate Family
13 Support Act, Section 40-6A-506 NMSA 1978, is enacted to read:

14 "40-6A-506. [NEW MATERIAL] CONTEST BY OBLIGOR. --

15 (a) An obligor may contest the validity or
16 enforcement of an income-withholding order issued in another
17 state and received directly by an employer in this state in the
18 same manner as if the order had been issued by a tribunal of
19 this state. Section 40-6A-604 NMSA 1978 applies to the contest.

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

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

23 (2) each employer that has directly received an
24 income-withholding order; and

25 (3) the person or agency designated to receive

1 payments in the income-withholding order or, if no person or
2 agency is designated, to the obligee."

3 Section 16. A new section of the Uniform Interstate Family
4 Support Act, Section 40-6A-507 NMSA 1978, is enacted to read:

5 "40-6A-507. [NEW MATERIAL] ADMINISTRATIVE ENFORCEMENT OF
6 ORDERS. --

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

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

21 Section 17. Section 40-6A-605 NMSA 1978 (being Laws 1994,
22 Chapter 107, Section 605) is amended to read:

23 "40-6A-605. NOTICE OF REGISTRATION OF ORDER. --

24 (a) When a support order or income-withholding order
25 issued in another state is registered, the registering tribunal

1 shall notify the nonregistering party. ~~Notice must be given by~~
2 ~~first class, certified or registered mail or by any means of~~
3 ~~personal service authorized by the law of this state.]~~ The
4 notice ~~[must]~~ shall be accompanied by a copy of the registered
5 order and the documents and relevant information accompanying
6 the order.

7 (b) The notice ~~[must]~~ shall inform the
8 nonregistering party:

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

12 (2) that a hearing to contest the validity or
13 enforcement of the registered order ~~must~~ be requested within
14 twenty days after the date of mailing or personal service of the
15 notice;

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

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

23 (c) Upon registration of an income-withholding order
24 for enforcement, the registering tribunal shall notify the
25 obligor's employer. "

Underscored material = new
[bracketed material] = delete

1 Section 18. Section 40-6A-606 NMSA 1978 (being Laws 1994,
2 Chapter 107, Section 606) is amended to read:

3 "40-6A-606. PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT
4 OF REGISTERED ORDER. --

5 (a) A nonregistering party seeking to contest the
6 validity or enforcement of a registered order in this state
7 shall request a hearing within twenty days after the date of
8 mailing or personal service of notice of the registration. The
9 nonregistering party may seek to vacate the registration, to
10 assert any defense to an allegation of noncompliance with the
11 registered order or to contest the remedies being sought or the
12 amount of any alleged arrearage pursuant to Section ~~[607 of the~~
13 ~~Uniform Interstate Family Support Act]~~ 40-6A-607 NMSA 1978.

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

17 (c) If a nonregistering party requests a hearing to
18 contest the validity or enforcement of the registered order, the
19 registering tribunal shall schedule the matter for hearing and
20 give notice to the parties ~~[by first class mail]~~ of the date,
21 time and place of the hearing."

22 Section 19. Section 40-6A-611 NMSA 1978 (being Laws 1994,
23 Chapter 107, Section 611) is amended to read:

24 "40-6A-611. MODIFICATION OF CHILD-SUPPORT ORDER OF ANOTHER
25 STATE. --

Underscored material = new
[bracketed material] = delete

1 (a) After a child-support order issued in another
2 state has been registered in this state, the responding tribunal
3 of this state may modify that order only if Section 40-6A-613
4 NMSA 1978 does not apply and after notice and hearing it finds
5 that:

6 (1) the following requirements are met:

7 (i) the child, the individual obligee and
8 the obligor do not reside in the issuing state;

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

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

13 (2) ~~[an individual party or]~~ the child or a
14 party who is an individual is subject to the personal
15 jurisdiction of the tribunal of this state and all of the
16 ~~[individual]~~ parties who are individuals have filed ~~[a written~~
17 ~~consent]~~ written consents in the issuing tribunal ~~[providing~~
18 ~~that]~~ for a tribunal of this state ~~[may]~~ to modify the support
19 order and assume continuing, exclusive jurisdiction over the
20 order. However, if the issuing state is a foreign jurisdiction
21 that has not enacted a law or established procedures
22 substantially similar to the procedures under the Uniform
23 Interstate Family Support Act, the consent otherwise required of
24 an individual residing in this state is not required for the
25 tribunal to assume jurisdiction to modify the child-support

Underscored material = new
[bracketed material] = delete

1 order.

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

7 (c) A tribunal of this state may not modify any
8 aspect of a child-support order that may not be modified under
9 the law of the issuing state.

10 (d) On issuance of an order modifying a child-
11 support order issued in another state, a tribunal of this state
12 becomes the tribunal [øf] having continuing, exclusive
13 jurisdiction. If two or more tribunals have issued child-
14 support orders for the same obligor and child, the order that
15 controls and shall be so recognized under Section 40-6A-207 NMSA
16 1978 establishes the aspects of the support order which are
17 nonmodifiable.

18 [~~(e) Within thirty days after issuance of a modified~~
19 ~~child support order, the party obtaining the modification shall~~
20 ~~file a certified copy of the order with the issuing tribunal~~
21 ~~which had continuing, exclusive jurisdiction over the earlier~~
22 ~~order and in each tribunal in which the party knows that earlier~~
23 ~~order has been registered.]"~~

24 Section 20. A new section of the Uniform Interstate Family
25 Support Act, Section 40-6A-613 NMSA 1978, is enacted to read:

Underscored material = new
[bracketed material] = delete

1 "40-6A-613. [NEW MATERIAL] JURISDICTION TO MODIFY CHILD-
2 SUPPORT ORDER OF ANOTHER STATE WHEN INDIVIDUAL PARTIES RESIDE IN
3 THIS STATE. --

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

9 (b) A tribunal of this state exercising jurisdiction
10 under this section shall apply the provisions of Articles 1 and
11 2 and this article of the Uniform Interstate Family Support Act
12 and the procedural and substantive law of this state to the
13 proceeding for enforcement or modification. Articles 3, 4, 5, 7
14 and 8 of the Uniform Interstate Family Support Act do not
15 apply. "

16 Section 21. A new section of the Uniform Interstate Family
17 Support Act, Section 40-6A-614 NMSA 1978, is enacted to read:

18 "40-6A-614. [NEW MATERIAL] NOTICE TO ISSUING TRIBUNAL OF
19 MODIFICATION. -- Within thirty days after issuance of a modified
20 child-support order, the party obtaining the modification shall
21 file a certified copy of the order with the issuing tribunal
22 that had continuing, exclusive jurisdiction over the earlier
23 order, and in each tribunal in which the party knows the earlier
24 order has been registered. A party who obtains the order and
25 fails to file a certified copy is subject to appropriate

Underscored material = new
[bracketed material] = delete

1 sanctions by a tribunal in which the issue of failure to file
2 arises. The failure to file does not affect the validity or
3 enforceability of the modified order of the new tribunal having
4 continuing, exclusive jurisdiction. "

5 Section 22. Section 40-6A-902 NMSA 1978 (being Laws 1994,
6 Chapter 107, Section 902) is amended to read:

7 "40-6A-902. SHORT TITLE. -- [~~This act~~] Chapter 40, Article
8 6A NMSA 1978 may be cited as the "Uniform Interstate Family
9 Support Act". "

10 Section 23. EFFECTIVE DATE. -- The effective date of the
11 provisions of this act is July 1, 1997.

12 - 26 -

State of New Mexico
House of Representatives

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

January 31, 1997

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been referred

HOUSE BILL 90

has had it under consideration and reports same with
recommendation that it DO PASS, amended as follows:

1. On page 4, line 14, after "Act" strike the comma and
insert in lieu thereof "or".

2. On page 14, between lines 11 and 12, insert the following
new section:

"Section 9. Section 40-6A-306 NMSA 1978 (being Laws 1994,
Chapter 107, Section 306) is amended to read:

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HJC/HB 90

Page 28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

3. Renumber the succeeding sections accordingly.

4. On page 17, line 23, strike "obligor's" and insert in lieu thereof "obligee's".

5. On page 19, line 8, strike "in" and insert in lieu thereof "by".

6. On page 21, line 14, strike "the date of mailing or personal service of the".

7. On page 22, lines 7 and 8, strike "the date of mailing or personal service of".

8. On page 24, line 9, after the period insert "If two or more tribunals have issued child-support orders for the same obligor and child, the order that controls and shall be so recognized under Section 40-6A-207 NMSA 1978 establishes the aspects of the support order which are nonmodifiable.".

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HJC/HB 90

Page 29

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

9. On page 24, line 13, after the period strike the remainder of the line in its entirety and strike lines 14 through 17 in their entirety.

Respectfully submitted,

Thomas P. Foy, Chairman

Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

Excused: Sanchez

Absent: None

115292.1

M \H0090

.112848.2ms

Underscored material = new
[bracketed material] = delete