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Title 63 - South Carolina Children's Code

CHAPTER 17

Paternity and Child Support

ARTICLE 1

Paternity

SECTION 63-17-10. Purpose; definitions.

- (A) The purpose of this article is to establish a procedure to aid in the determination of the paternity of an individual.
- (B) As used in this article, "child" includes, but is not limited to, a person under the age of eighteen years.
- (C) An action to establish the paternity of an individual may be brought by:
- (1) a child;
 - (2) the natural mother of a child;
 - (3) any person in whose care a child has been placed;
 - (4) an authorized agency, including, but not limited to, the Department of Social Services, pursuant to the provisions of Chapter 5 of Title 43, and any other person or agency pursuant to the provisions of Sections 63-3-550 and 63-17-340; or
 - (5) a person who claims to be the father of a child.
- (D) If an action is brought under this article prior to the birth of a child, all proceedings must be stayed until after the birth of the child except the service of a summons and the taking of depositions or other discovery procedures.
- (E) Whenever an action threatens to make a child illegitimate, the presumed legal father and the putative natural father must be made parties respondents to the action. A child under the age of eighteen years must be represented by a guardian ad litem appointed by the court. Neither the mother nor the presumed or putative father of the child may represent him as guardian ad litem.



HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-20. Jurisdiction.

(A) Any person who has sexual intercourse in this State thereby submits to the jurisdiction of the courts of this State as to an action brought under this article with respect to a child who may have been conceived by that act of intercourse. In addition to any other method provided by law, personal jurisdiction may be acquired by service of process outside this State in the manner authorized by the provisions of Section 36-2-806.

(B) Unless the court orders otherwise, the custody of an illegitimate child is solely in the natural mother unless the mother has relinquished her rights to the child. If paternity has been acknowledged or adjudicated, the father may petition the court for rights of visitation or custody in a proceeding before the court apart from an action to establish paternity.

(C) All actions commenced under this article must be dealt with as separate proceedings before the court without a jury. The general public is to be excluded from these proceedings and only those persons whom the judge finds to have a direct interest in the proceeding or in assisting the court in its work are to be permitted to attend.

(D) Any proceeding commenced under this article is a civil action. The natural mother of the child and the alleged father are competent to testify and may be compelled by the court to appear and give testimony.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-30. Genetic tests; costs.

(A) As soon as practicable after an action has been commenced, the court, upon its motion or that of an interested party, may order the natural mother, the putative father, and the child to submit to genetic tests such as red blood cell antigen testing, human leukocyte antigen (HLA) testing, electrophoresis, or other tests which have been developed for the purpose of proving or disproving parentage and which are reasonably accessible. If the court orders any of these tests, and if the action is commenced prior to the birth of the child, the court shall also order that the tests be made as soon as medically feasible after the birth of the child. The tests must be performed under the supervision of a qualified expert. In all cases the court shall determine the number and the qualifications of experts, except that the parties may submit for the court's approval a written stipulation regarding experts and facilities to be used for testing. The costs of any tests not disposed of by written stipulation must be paid by the parties as ordered by the court. However, in any action initiated pursuant to Section 43-5-220 where the court determines that the respondent is indigent, the court may order that these costs be borne by the petitioner. When the State of South Carolina is the petitioner and the respondent is indigent and the court orders the petitioner to pay these costs, they must be paid from amounts collected under the Child Support Enforcement Program (Title IV-D).

(B) For all child support cases administered under Title IV-D of the Social Security Act, the child and all other parties in a contested paternity case, upon the request of any party to the action, must be ordered by the court to submit to the genetic testing, as provided for in subsection (A), to determine paternity. This testing is not required where the individual involved has good cause for failing to cooperate pursuant to the provisions of Section 402(a)(26)(B) of the Social Security Act or where the court determines that paternity has been previously established by operation of law or judicial finding of fact.

(C) For all child support cases not administered under Title IV-D of the Social Security Act, the child and all parties in a contested paternity case, upon the request of any party to the action, must be ordered by the court to submit to the genetic testing, as provided for in subsection (A), to determine paternity. This testing is not required where the court determines that good cause, including the presumption of legitimacy, not to order the test exists or where the court determines that paternity has been established previously by operation of law or judicial finding of fact.

(D) Any order issued under this section is enforceable by contempt.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-40. Settlement and voluntary agreements.

(A) The court must encourage settlements and voluntary agreements and must examine and approve them whenever they are warranted. Upon a finding of fairness the court shall approve, without a hearing, settlements and voluntary agreements which are reduced to writing, signed by the parties, and properly verified. The agreement must be accompanied by financial declarations and affidavits from the custodial and noncustodial parents stating that they have read, or have had read to them, and understand the agreement and that they have voluntarily executed the agreement or consent order. The parties may submit themselves to the jurisdiction of the court by a settlement or voluntary agreement which must be filed with the summons and complaint. A defendant's affidavit must state that the defendant is capable of fulfilling any financial requirements of the agreement or consent order applicable to the defendant. Upon the court's approval, the settlement or voluntary agreement becomes an order of the court.

(B) In actions commenced by the Department of Social Services or any other authorized agency, an employee of the department or the agency who is familiar with the action may make, on behalf of the custodial parent, the required affidavit accompanying a settlement, voluntary agreement, or consent order. In cases where the child is the recipient of public assistance, the affidavit must state that the employee has reviewed the case and that the child involved is receiving public assistance due in part to inadequate support from the noncustodial parent.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-50. Verified voluntary acknowledgments.

(A) A verified voluntary acknowledgment of paternity creates a legal finding of paternity, subject to the right of any signatory to rescind the acknowledgment within the earlier of:

(1) sixty days; or

(2) the date of an administrative or judicial proceeding relating to the child including a proceeding to establish a support order in which the signatory is a party.

(B) Upon the expiration of the sixty-day period provided for in subsection (A), a verified voluntary acknowledgment of paternity may be challenged in court only on the basis of fraud, duress, or material mistake of fact, with the burden of proof upon the challenger.

(C) In the event of a challenge, legal responsibilities including child support obligations of any signatory arising from the acknowledgment may not be suspended during the challenge except for good cause shown.

(D) Judicial or administrative proceedings are not required or permitted to ratify an unchallenged acknowledgment of paternity.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-60. Admissibility of evidence.

(A) The following evidence is admissible at a hearing to determine paternity:

(1) Results of genetic tests as described in Section 63-17-30 from physicians, agencies, hospitals, laboratories, or other qualified testing facilities, properly verified to show the chain of custody of blood samples. This evidence, must be introduced and admitted without the foundation testimony or other proof of authenticity or accuracy unless a challenge has been asserted by motion at least twenty days before the date of trial. Any party to the action, absent stipulations to the contrary, may demand the right to have additional testing conducted at the expense of the party who demands the additional testing.

(2) The refusal of a party to submit to a genetic or other ordered test as to the credibility of a party.

(3) Test results which show a statistical probability of paternity. A statistical probability of paternity of ninety-five percent or higher creates a rebuttable presumption of the putative father's paternity.

(4) A verified voluntary acknowledgment of paternity. This acknowledgment creates a rebuttable presumption of the putative father's paternity except that a verified voluntary acknowledgment of paternity executed after January 1, 1998, creates a conclusive presumption of the putative father's paternity subject to the provisions of Section 63-17-50. The person acknowledging paternity must be given the opportunity to seek legal advice prior to signing a verified voluntary acknowledgment. A verified voluntary acknowledgment must be made by a sworn document, signed by the person acknowledging paternity and witnessed by (1) that person's attorney, parent, or guardian or (2) a person eighteen years of age or older who is not related to the child and not employed or acting under the authority of the Department of Social Services. The witness must attach to the acknowledgment a written certification which specifies that prior to signing the acknowledgment, the provisions of the acknowledgment were discussed with the person acknowledging paternity and that, based upon this discussion, it is the witness' opinion that the acknowledgment is being given voluntarily and that it is not being obtained under duress or through coercion.

(5) A foreign paternity determination whether established through administrative or judicial process. This determination creates a conclusive presumption of paternity.

(6) A birth certificate containing the signature of the mother and the putative father. This evidence creates a rebuttable presumption of paternity.

(7) An expert's opinion concerning the time of conception. This evidence is admissible in the same manner as other expert testimony. The court may take judicial notice of the normal period of gestation.

(8) The testimony of a husband and wife as to any relevant matter, including marriage and parentage.

(9) Any other relevant and competent evidence deemed admissible in the discretion of the court.

(B) Upon the motion of any party to the action or upon its own motion, the court may view a child for the purpose of examining the presence or the absence of physical characteristics and similarities between the child and the putative father.

(C) If a male witness offers testimony indicating that his act of intercourse with the natural mother may have resulted in the conception of the child, the court may require the witness to submit to genetic or other tests to determine whether he is the child's father. If the results of the tests exclude or tend to exclude the witness as the father of the child, the witness's testimony must be stricken from the record and disregarded.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-70. Court orders.

Upon a finding that the putative father is the natural father of the child, the court must issue an order designating the putative father as the natural father. The order also shall set forth the social security numbers, or the alien identification numbers assigned to resident aliens who do not have social security numbers, of both parents. The order shall establish a duty of support and provide for child support payments in amounts and at a frequency to be determined by the court. The order also shall provide for other

relief which has been properly prayed for in the pleadings and which is considered reasonable and just by the court. Upon a finding that the putative father is not the father of the child, the court shall issue an order which sets forth this finding.

HISTORY: 2008 Act No. 361, Section 2.

ARTICLE 3

Child Support General Provisions

SECTION 63-17-310. Family Court authority to enforce orders.

The family court has the authority to enforce the provisions of any decree, judgment, or order regarding child support of a court of this State, including cases with jurisdiction based on the revised Uniform Reciprocal Enforcement of Support Act, provided that personal jurisdiction has been properly established. This authority includes the right to modify any such decree, judgment, or order for child support as the court considers necessary upon a showing of changed circumstances. No such modification is effective as to any installment accruing prior to filing and service of the action for modification. Additionally, the family court has the right to hold any arrearage in child support in abeyance.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-320. Enforcement and modification of orders.

Any family court has jurisdiction and authority to enforce or modify an order or decree of any other court respecting support of wife or children subject to the limitations contained in Section 63-17-310, custody of children and visitation upon an order from the court of original jurisdiction, transferring jurisdiction to the family court. Petition may be made by either party to the original action to transfer the cause to the family court of the county where the other party resides, or petition may be made by the family court of the county to which transfer is sought, if it appears that the transfer will serve the ends of justice. The court of original jurisdiction may transfer the cause in its discretion.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-330. Temporary order for support pending paternity.

The court shall issue, upon motion of either party, a temporary order requiring the payment of child support pending an administrative or judicial determination of parentage if:

- (1) the defendant has signed a verified voluntary acknowledgment of paternity which complies with the requirements of Section 63-17-60(A)(4);
- (2) the defendant has been determined pursuant to law to be the parent; or
- (3) there is other clear and convincing evidence that the defendant is the child's parent.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-340. Persons who may petition for support.

Any interested persons may file a petition to the court requesting the court to order persons legally chargeable to provide support as required by law.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-350. Grandparent responsibility.

When a child is born to parents, either or both of whom are unmarried and under eighteen years of age, the Child Support Enforcement Division of the State Department of Social Services may pursue support and maintenance of that child from one or both of the child's maternal and paternal grandparents as long as the parent of the child is under eighteen years of age.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-360. Reconciliation efforts.

Except where the circumstances indicate it to be undesirable, in all cases where an application for support has been made, an effort should be made by the judge to restore harmonious relations between the husband and wife and to adjust the issues raised by the application through conciliation and agreement. Where an agreement for the support of the petitioner is brought about, it must be reduced to writing and submitted to the court for approval. Where possible, the court shall see both parties and shall inquire of each whether the agreement, which he must state to them, is what they have agreed to. If it is, and the court shall approve it, the court without further hearing may thereupon enter an order for the support of the petitioner by the respondent in accordance with such agreement, which shall be binding upon the respondent and shall in all respects be a valid order as though it had been made after process has been issued out of the court. The court record shall show that such order was made upon agreement.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-370. Summons and rule to show cause.

The court shall in a proper case issue a summons or rule to show cause, requiring the respondent to appear at the court at a time and place named, to show cause why the order for support prayed for by the petition shall not be granted. A summons or rule to show cause shall not be refused without giving the petitioner an opportunity to present witnesses and be heard by the court.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-380. Hearing notices.

(A) If pursuant to family court rule, the clerk of court issues a rule to show cause in a case of child support or periodic alimony arrearage, the clerk also shall provide written notice to the party owed the support or alimony. The notice to the party owed support or alimony must:

- (1) be provided by the court at least five days prior to the hearing;
 - (2) be sent by first class delivery through the United States Postal Service and addressed to the party's last address on file with the court; and
 - (3) include the date, time, and place the party in arrears has been ordered to appear.
- (B) The mailing provided for in subsection (A) is considered sufficient notice of the hearing to the party owed the support or alimony.
- (C) The clerk of court shall place in the case file a copy of the notice sent to the party owed support or alimony with the time and date stamped on the copy.

(D) This section does not apply to a rule to show cause in a case of child support or periodic alimony arrearage issued by a clerk of court pursuant to family court rule if the party owed the support or alimony is represented by the Department of Social Services.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-385. Failure to pay court-ordered child support other than periodic child support payments; affidavit; hearing; costs and attorney's fees.

(A) Where a court order requires a parent to provide monetary support for a child in the form of payment of health, medical, educational, or other expenses, excluding periodic child support payments, and the parent fails to do so, the other parent or the child's custodial guardian may petition the court for relief using an authorized affidavit and supporting documents setting forth the existence of the expense and the failure of the parent to pay the required support.

(1) Within sixty days of approval of this act by the Governor, Court Administration shall prepare the authorized affidavit form and make it available to petitioners seeking relief under the provisions of this section. The authorized affidavit form must contain the following information:

- (a) the names and addresses of the petitioner and the parent alleged to have failed to make the support payment;
 - (b) the amount and nature of the support payment the parent allegedly failed to make;
 - (c) the date and manner in which the petitioner notified the alleged nonpaying parent and requested payment;
 - (d) the response, if any, of the alleged nonpaying parent upon receiving the petitioner's request for payment; and
 - (e) if the matter relates to an expense covered by an insurance policy, whether an insurance claim has been filed, and, if so, the insurance carrier's response.
- (2) The authorized affidavit may be accompanied by the following documents:
- (a) a copy of the court order requiring the parent to provide monetary support for a child excluding periodic payments of funds for support;
 - (b) a copy of any bill, invoice, or other written document, substantiating the expense the petitioner claims the parent is required to pay;
 - (c) a copy of any written request for payment of the support by the petitioner to the alleged nonpaying parent;
 - (d) a copy of any written reply from the alleged nonpaying parent to the parent responding to the petitioner's request for payment;
 - (e) if the matter relates to an expense covered by an insurance policy, a copy of all correspondence to and from the insurance carrier pertaining to payment of the claim;
 - (f) proof that the petitioner has satisfied that portion of the expense he is required to pay pursuant to the court order; and
 - (g) the current mailing address of the alleged nonpaying parent.

(3) Upon receipt of a petition accompanied by an authorized affidavit, the court shall issue a rule to show cause to the alleged nonpaying parent for nonpayment of the required support. The parent must be served in accordance with the South Carolina Rules of Civil Procedure. The court also shall provide notice of the hearing to the petitioner.

(B)(1) At the hearing on the rule to show cause, once the petitioner has established his claim, the burden is on the alleged nonpaying parent to establish a defense.

(2) The alleged nonpaying parent may assert any defense allowed by law.

(3) The petitioner must be present at the hearing and may be called upon to testify.

(C) If the family court determines that the claims or defenses of either party are frivolous, or that either party knowingly or intentionally made or filed a false authorized affidavit, or knowingly or intentionally submitted false documents in support of a claim or defense, the court may award to either party attorney's fees and other litigation costs reasonably incurred in the prosecution or defense of the petition.

HISTORY: 2010 Act No. 154, Section 1, eff August 10, 2010.

SECTION 63-17-390. Warrants for refusal to obey court order.

Where a respondent shall neglect or refuse to obey an order for support or upon agreement signed by the respondent and approved by the court, and the court is satisfied thereof by competent proof, it may, with or without notice, issue a warrant to commit the respondent to jail until the order is obeyed or until the respondent is discharged by law.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-400. Service of warrant.

When a petition is presented to the court and it shall appear that:

(1) the summons or rule to show cause cannot be served; or

(2) the respondent has failed to obey the summons or rule to show cause; or

(3) the respondent is likely to leave the jurisdiction; or

(4) a summons or rule to show cause would be ineffectual; or

(5) the safety of the petitioner is endangered; or

(6) a respondent on bond or on probation has failed to appear, the court may issue a warrant, in the form prescribed in Section 63-17-410, directing that the respondent be arrested and brought before the court. Warrants and other processes may be served by any peace officer, or by the probation counselor. The court shall make rules relative to the service of warrants. Warrants issued by the court shall be valid throughout the State. The judge may issue ex parte orders for temporary child support, temporary custody and restraining orders where conditions warrant.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-410. Form of arrest warrant.

A warrant of arrest may be substantially in the following form:

"STATE OF SOUTH CAROLINA } IN THE FAMILY COURT COUNTY OF _____ } ORDER

A petition for nonsupport having been filed against the above named respondent, _____, and a showing having been made to the Court that there exists one or more of the grounds for issuance of a warrant for the arrest of the respondent contained in

The Family Court Act. Now, therefore, it is

ORDERED that the Sheriff of _____ County or any lawful deputy arrest the above named _____ and commit (her/him) to the _____ County Jail or any other jail in the county to be held until (she/he) can be brought before the Court or otherwise released in accordance with the law.

AND IT IS SO ORDERED

Judge

South Carolina".

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-420. Out of session proceedings.

If a respondent is arrested under a warrant of the court at a time when the court is not in session, he shall be taken to the most accessible magistrate and arraigned before him. The production of the warrant shall be evidence of the filing of proper information, and the magistrate shall thereupon hold the respondent, admit him to bond, or parole him for trial before the court. All subsequent proceedings shall be had in the court.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-430. Bond in lieu of punishment.

If the defendant in any proceeding brought under the provisions of Section 63-5-20, either before or after conviction, shall give bond, with one or more sureties approved by the clerk of the court, in the sum of not less than one hundred dollars nor more than three thousand dollars under such terms and conditions as the court in its discretion may deem wise and proper for the maintenance and support of the defendant's wife or minor unmarried child or children, he shall not be imprisoned or the fine imposed unless the condition of such bond is broken.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-440. Bond conditions.

If the respondent be admitted to bond, the condition of the undertaking shall be for his future appearance according to the terms thereof, or in default of such appearance, that the surety will pay the clerk of court a specified sum as therein set forth. Instead of entering into such an undertaking a respondent may deposit money in an amount to be fixed by the court. If the respondent fails to appear in accordance with the terms of the undertaking, the court shall enter the fact of such nonappearance upon the record, and the undertaking for his appearance, or the money deposited in lieu thereof, shall be forfeited and upon order of the court the sum recovered shall be applied by the clerk of the court for the benefit of the petitioner. However, the court may, in its discretion, remit such forfeiture.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-450. Information required in paternity and support actions.

(A) An obligor and an obligee in a child support or paternity action, whether judicial or administrative, shall provide the following information to the tribunal:

- (1) residence address;
- (2) mailing address;
- (3) telephone number;
- (4) social security number or the alien identification number assigned to a resident alien who does not have a social security number;
- (5) driver's license number; and
- (6) name, address, and telephone number of employer.

The parties shall notify the tribunal of any changes to the above-referenced information within ten days of the effective date of the change. In subsequent support actions between the obligor and the obligee or their assignees, upon sufficient showing that diligent effort has been made to ascertain the location of the party, delivery by first-class mail of written notice to the obligor and the obligee at the residential or employer address most recently filed with the tribunal constitutes service of process.

(B) "Tribunal" is defined for purposes of this section as the family court or the Department of Social Services, Child Support Enforcement Division or its designee.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-460. Medical bills as evidence of costs.

(A) If copies of bills are furnished to the adverse party at least ten days before the date of an administrative or judicial hearing, the bills for testing for parentage and for prenatal and postnatal health care of the mother and child must be admitted as evidence without third party foundation testimony and are prima facie evidence of the amounts incurred for the services or for testing and that the amounts were reasonable, necessary, and customary.

(B) Any individual or entity who prepares or submits falsified billing information shall be subject to the contempt powers of the court.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-470. Proceedings and awards.

(A) In any proceeding for the award of child support, there is a rebuttable presumption that the amount of the award which would

result from the application of the guidelines required under Section 43-5-580(b) is the correct amount of child support to be awarded. A different amount may be awarded upon a showing that application of the guidelines in a particular case would be unjust or inappropriate. When the court orders a child support award that varies significantly from the amount resulting from the application of the guidelines, the court shall make specific, written findings of those facts upon which it bases its conclusion supporting that award. Findings that rebut the guidelines must state the amount of support that would have been required under the guidelines and include a justification of why the order varies from the guidelines.

(B) Application of these guidelines to an existing child support order, in and of itself, is not considered a change in circumstances for the modification of that existing order, except in a Title IV-D case.

(C) The court shall consider the following factors which may be possible reasons for deviation from the guidelines or may be used in determining whether a change in circumstances has occurred which would require a modification of an existing order:

- (1) educational expenses for the child or children or the spouse, to include those incurred for private, parochial, or trade schools, other secondary schools, or post-secondary education where there is tuition or related costs;
 - (2) equitable distribution of property;
 - (3) consumer debts;
 - (4) families with more than six children;
 - (5) unreimbursed extraordinary medical or dental expenses for the noncustodial or custodial parent;
 - (6) mandatory deduction of retirement pensions and union fees;
 - (7) support obligations for other dependents living with the noncustodial parent or noncourt ordered child support from another relationship;
 - (8) child-related unreimbursed extraordinary medical expenses;
 - (9) monthly fixed payments imposed by a court or operation of law;
 - (10) significant available income of the child or children;
 - (11) substantial disparity of income in which the noncustodial parent's income is significantly less than the custodial parent's income, thus making it financially impracticable to pay what the guidelines indicate the noncustodial parent should pay;
 - (12) alimony; because of their unique nature, lump sum, rehabilitative, reimbursement, or any other alimony that the court may award, may be considered by the court as a possible reason for deviation from these guidelines;
 - (13) agreements reached between parties; the court may deviate from the guidelines based on an agreement between the parties if both parties are represented by counsel or if, upon a thorough examination of any party not represented by counsel, the court determines the party fully understands the agreement as to child support. The court still has the discretion and the independent duty to determine if the amount is reasonable and in the best interest of the child or children.
- (D) Pursuant to Section 43-5-580(b), the department shall promulgate regulations which establish child support guidelines as a rebuttable presumption. The department shall review these regulations at least once every four years to ensure that their application results in appropriate child support award amounts.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-480. Social Security numbers.

An administrative or judicial order which includes a determination of paternity or a provision for child support shall set forth the social security numbers, or the alien identification numbers assigned to resident aliens who do not have social security numbers, of both parents.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-490. Employment program.

Notwithstanding any other provision of law, a court or administrative order for child support or order for contempt for nonpayment of child support being enforced under Title IV-D of the Social Security Act may direct a noncustodial parent who is unemployed or underemployed and who is the parent of a child receiving Aid to Families with Dependent Children benefits to participate in an employment training program or public service employment. Upon failure of the noncustodial parent to comply with an order of contempt which directed the noncustodial parent to participate in the employment training program or public service employment, the Family Court, upon receiving an affidavit of noncompliance from the department, immediately may issue a bench warrant for the arrest of the noncustodial parent. The Department of Social Services shall promulgate regulations governing the eligibility criteria and implementation of these training programs and public service employment.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-500. Probation.

In the case of a respondent who shall have neglected or refused to obey an order for support, the court may suspend sentence or the execution of the warrant, as the case may be, and place him or her on probation under such conditions as the court may determine. No person, however, shall be placed on probation unless an order to that effect is made by the court.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-510. Authority to revoke probation.

The court may at any time where circumstances warrant it, after a hearing, revoke the probation of a respondent.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-520. Distribution of fines.

Fines collected pursuant to Sections 63-17-850, 63-17-2310(C), and 43-5-598(G) must be distributed as follows:

(1) The Department of Social Services shall pay to the federal government the federal share of the amount collected.

(2) The Department of Social Services shall use the state share of the amount collected pursuant to item (1) in the administration of the child support enforcement program.

HISTORY: 2008 Act No. 361, Section 2.

ARTICLE 4

State Disbursement Unit

SECTION 63-17-610. Federal mandate for and implementation of State Disbursement Unit.

(A) The federal government mandates that every state must have a centralized statewide disbursement unit which collects and disburses child support payments. The federal requirement will result in substantial changes in how spousal and child support payments are collected and disbursed in this State. The required technical solution cannot practically be deployed in every county at the same time and, as a result, the amendments to Sections 63-17-1430, 63-17-1460, 63-17-1580, 63-17-1890, and 63-17-1910 will take effect on a county-by-county basis. The General Assembly finds that the amendments are necessary to comply with the federal requirements.

(B) To implement procedures that will accompany deployment of the statewide disbursement unit, the Department of Social Services and the clerks of court shall provide notice to payors as required in subsection (C) below. The Department of Social Services and the clerks of court shall provide general notice to the public showing the date each county will implement the State Disbursement Unit by posting the notice required in subsection (C) on their web sites. This posting constitutes notice of the effective date of the amendments to Sections 63-17-1430, 63-17-1460, 63-17-1580- 63-17-1890, and 63-17-1910.

(C) Upon full deployment of the federally mandated single statewide system for child support, the Department of Social Services is authorized to transition to a State Disbursement Unit that will include all child and spousal support, as provided in this act. The department and the clerks of court shall cooperate fully in developing and implementing a transition plan that meets federal requirements and avoids federal financial penalties. The department shall provide notice to each affected support payor directing the payor to make all future payments, beginning thirty days after the department's notices to the payor, to the State Disbursement Unit.

(D) The amendments to Sections 63-17-1430, 63-17-1460, 63-17-1580, 63-17-1890, and 63-17-1910 concerning direct payments to the State Disbursement Unit are effective as to all payors receiving the notice specified in this section thirty days after the date of the notice, and effective as to all new cases filed in the county after that date.

HISTORY: 2008 Act No. 332, Section 3.

SECTION 63-17-620. State Disbursement Unit; operation and administration; court costs.

(A) The Department of Social Services shall establish a State Disbursement Unit for the collection and disbursement of all child, spousal, or child and spousal support payments.

(B) The State Disbursement Unit shall be operated and administered by either (1) the Child Support Enforcement Division of the Department of Social Services, or (2) a contractor directly responsible to the Department of Social Services.

(C) Amounts collected through the State Disbursement Unit are subject to court costs pursuant to Section 63-3-370(C).

HISTORY: 2008 Act No. 332, Section 1.

ARTICLE 5

Administrative Process for Establishing and Enforcing Paternity and Child Support

SECTION 63-17-710. Jurisdiction.

Notwithstanding Section 63-3-530 and any other provision of law, the Child Support Enforcement Division of the Department of Social Services, or its designee, also has jurisdiction to establish paternity, to establish and enforce child support, and to administratively change the payee in cases brought pursuant to Title IV-D of the Social Security Act in accordance with this article.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-720. Definitions.

As used in this article, unless the context otherwise requires:

- (1) "Arrearage" means amounts of past-due and unpaid monthly support obligations established by court or administrative order.
- (2) "Costs of collections" means costs as provided for in Section 63-3-370 in addition to the monthly support obligation.
- (3) "Court" or "judge" means any court or judge in this State having jurisdiction to determine the liability of persons for the support of another person.
- (4) "Custodian" means a parent, relative, legal guardian, or other person or agency having physical custody of a child.
- (5) "Dependent child" means a person who is legally entitled to or the subject of a support order for the provision of proper or necessary subsistence, education, medical care, or other care necessary for the person's health, guidance, or well-being who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States.
- (6) "Director" means the Director of the Child Support Enforcement Division of the State Department of Social Services or the director's designees.
- (7) "Division" means the Child Support Enforcement Division of the State Department of Social Services.
- (8) "Duty of support" means a duty of support imposed by law, by order, decree, or judgment of a court or by administrative order, whether interlocutory or final, or whether incidental to an action for divorce, separation, separate maintenance, or otherwise. "Duty of support" includes the duty to pay a monthly support obligation and any arrearage.
- (9) "Monthly support obligation" means the monthly amount of current child support that an obligor is ordered to pay by the court or by the division pursuant to this article.
- (10) "Obligee" means a person or agency to whom a duty of support is owed or a person or agency having commenced a proceeding for the establishment or enforcement of an alleged duty of support.
- (11) "Obligor" means a person owing a duty of support or against whom a proceeding for the establishment or enforcement of a duty to support is commenced.
- (12) "Order" means an administrative order that involves the establishment of paternity and/or the establishment and enforcement of an order for child support and/or medical support issued by the Child Support Enforcement Division of the State Department of Social Services or the administrative agency of another state or comparable jurisdiction with similar authority.
- (13) "Payee" means a custodial parent on whose behalf child support payments are being collected or an agency or its designee in this or another state to which an assignment of rights to child support has been made.
- (14) "Receipt of notice" means either the date on which service of process of a notice of financial responsibility is actually accomplished or the date on the return receipt if service is by certified mail, both in accordance with one of the methods of service specified in Section 63-17-740.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-730. Notice of financial responsibility; order of default.

The director shall issue a notice of financial responsibility to an obligor who owes a child support debt or who is responsible for the support of a child on whose behalf the custodian of that child is receiving support enforcement services from the division pursuant to Title IV-D of the Social Security Act. The notice shall state that:

- (1) the obligor is required to appear at the time and location indicated in the notice for a negotiation conference to determine the obligor's duty of support;
- (2) the division may issue an order of default setting forth the amount of the obligor's duty of support, if the obligor:
 - (a) fails to appear for the negotiation conference as scheduled in the notice;
 - (b) fails to reschedule a negotiation conference before the date and time stated in the notice or within thirty days of service of the notice of financial responsibility, whichever is later; or
 - (c) fails to send the division a written request for a court hearing before the time scheduled for the negotiation conference or within thirty days of service of the notice of financial responsibility, whichever is later;
- (3) the obligor may request a court hearing within thirty days after the receipt of the notice of financial responsibility pursuant to

Section 63-17-780;

(4) the order of default must be filed with the clerk of court of the county in which the obligor resides or, if the obligor does not reside in the State, with the clerk of court of the county in which the obligee resides; that as soon as the order of the default is filed, it shall have all the force, effect, and remedies of an order of the court including, but not limited to, income withholding or contempt of court; and that execution may be issued on the order in the same manner and with the same effect as if it were an order of the court;

(5) no court order for judgment nor verified entry of judgment may be required in order for the clerk of court and division to certify past due amounts of child support to the Internal Revenue Service or Department of Revenue for purposes of intercepting a federal or state tax refund;

(6) the name of the custodian of the child on whose behalf support is being sought and the name and birth date of the child;

(7) the amount of the monthly support obligation must be based upon the child support guidelines as set forth in Sections 63-17-470 and 43-5-580;

(8) the division may issue an administrative subpoena to obtain income information from the obligor;

(9) the amount of any arrearage which has accrued under an administrative or court order from support;

(10) the costs of collections may be assessed against and collected from the obligor;

(11) the obligor may assert the following objections in the negotiation conference and that, if the objections are not resolved, the division shall schedule a court hearing pursuant to Section 63-17-750(C):

(a) that the dependent child has been adopted by a person other than the obligor;

(b) that the dependent child is emancipated; or

(c) that there is an existing court or administrative order for support as to the monthly support obligation;

(12) the duty to provide medical support must be established under this article in accordance with the state child support guidelines;

(13) an order issued pursuant to this article or an existing order of a court also may be modified under this article in accordance with the Uniform Interstate Family Support Act;

(14) the obligor is responsible for notifying the division of any change of address or employment within ten days of the change;

(15) if the obligor has any questions, the obligor should telephone or visit the division;

(16) the obligor has the right to consult an attorney and the right to be represented by an attorney at the negotiation conference;

(17) other information as set forth in regulations promulgated pursuant to the Administrative Procedures Act.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-740. Service of notice of financial responsibility.

(A) The division shall serve a notice of financial responsibility on the obligor not less than thirty days before the date stated in the notice for the negotiation conference:

(1) in the manner prescribed for service of process in a civil action; or

(2) by an employee appointed by the division to serve process; or

(3) by certified mail, return receipt requested, signed by the obligor only. The receipt is prima facie evidence of service.

(B) Notice of a rescheduled negotiation conference must be served on the obligor not less than ten days before the date stated in the notice of continuance of negotiation conference.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-750. Negotiation conference; consent order; monthly support obligation.

(A) An obligor who has been served with a notice of financial responsibility pursuant to Section 63-17-740 and who does not request a hearing pursuant to Section 63-17-780 shall appear at the time and location stated in the notice for a negotiation conference or shall reschedule a negotiation conference before the date and time stated in the notice. The negotiation conference must be scheduled not more than ninety days after the date of the issuance of the notice of financial responsibility. A negotiation conference may not be rescheduled more than once without good cause as defined in regulations promulgated pursuant to the Administrative Procedures Act. If a stipulation is agreed upon at the negotiation conference as to the obligor's duty of support, the division shall issue a consent order setting forth:

- (1) the amount of the monthly support obligation and instructions on the manner in which it must be paid;
- (2) the amount of arrearage due and owing and instructions on the manner in which it must be paid;
- (3) the name of the custodian of the child and the name and birth date of the child for whom support is being sought;
- (4) other information as set forth in regulations promulgated pursuant to Section 63-17-730(17).

(B) A copy of the consent order issued pursuant to subsection (A) and proof of service must be filed with the clerk of court of the county in which the obligor resides or, if the obligor does not reside in the State, with the clerk of court of the county in which the obligee resides. The clerk shall stamp the date of receipt of the copy of the order and shall assign the order a case number. The consent order shall have all the force, effect, and remedies of an order of the court including, but not limited to, income withholding and contempt of court. Execution may be issued on the order in the same manner and with the same effect as if it were an order of the court. No court order for judgment nor verified entry of judgment is required in order for the clerk of court and division to certify past-due amounts of child support to the Internal Revenue Service or State Department of Revenue for purposes of intercepting a federal or state tax refund, or credit bureau reporting.

(C) If no stipulation is agreed upon at the negotiation conference, the division shall file the notice of financial responsibility and proof of service with the clerk of court of the county in which the obligor resides or, if the obligor does not reside in the State, with the clerk of court of the county in which the obligee resides, and the matter must be set for a hearing in accordance with Section 63-17-780.

(D) The determination of the monthly support obligation must be based on the child support guidelines as set forth in Sections 63-17-470 and 43-5-580.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-760. Failure to appear for negotiation conference.

(A) If an obligor fails to appear for a negotiation conference scheduled in the notice of financial responsibility or fails to reschedule the negotiation conference before the date and time stated in the notice of financial responsibility or if the obligor fails to serve the division with a written request for a court hearing before the time scheduled for the negotiation conference or within thirty days of the date of service of the notice of financial responsibility, whichever is later, the division shall issue an order of default in accordance with the notice of financial responsibility. The order of default must be approved by the court and shall include:

- (1) the amount of the monthly support obligation and instructions on the manner in which it must be paid;
- (2) the amount of the arrearage due and owing and instructions on the manner in which it must be paid;
- (3) the name of the custodian of the child and the name and birth date of the child for whom support is being sought;
- (4) other information as set forth in regulations promulgated pursuant to the Administrative Procedures Act.

(B) A copy of an order of default issued pursuant to Subsection (A), proof of service, and an affidavit of default must be filed with the family court in the same manner and has the same force and effect as provided for in Section 63-17-750(B).

(C) The determination of the monthly support obligation must be based on the child support guidelines as set forth in Sections 63-17-470 and 43-5-580.

(D) If an affidavit of service shows that the obligor has been afforded less than the required thirty days notice of the negotiation conference, the negotiation conference must be rescheduled. The obligor must be given at least ten days notice of the rescheduled conference, pursuant to Section 63-17-740. If the obligor fails to appear for the rescheduled negotiation conference and fails to request a court hearing before the date of the rescheduled negotiation conference, the division shall issue an order of default in accordance with subsection (A).

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-770. Order of financial responsibility; procedures.

(A) A copy of an order of financial responsibility or a consent order issued by the division must be sent by the division by first class mail to the obligor or the obligor's attorney of record and to the custodial parent.

(B) A consent order and an order of default shall continue notwithstanding the fact that the child is no longer receiving benefits for aid to families with dependent children, unless the child is emancipated or is otherwise no longer entitled to support as otherwise determined by law. An order of financial responsibility or order of default shall continue until modified by an administrative order or court order or by emancipation of the child.

(C) Nothing contained in this article deprives a court of competent jurisdiction from determining the duty of support of an obligor against whom an order is issued pursuant to this article. A determination by the court supersedes the administrative order as to support payments due subsequent to the entry of the order by the court but must not modify any arrearage which may have accrued under the administrative order.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-780. Objections to notice of responsibility.

(A) An obligor who objects to a part of the notice of financial responsibility, within thirty days of receipt of the notice, shall make a written request for a court hearing to the division. The request must be served upon the division by certified mail or in the same manner as a summons in a civil action.

(B) Upon receipt of a written request for a hearing, the division shall file the written request for a hearing, the notice of financial responsibility, and proof of service with the clerk of court of the county in which the obligor resides or, if the obligor does not reside in the State, with the clerk of court of the county in which the obligee resides and shall request the court to set a hearing for the matter. The clerk of court shall send a notice to the obligor and the division informing them of the date and location of the hearing. If the obligor raises issues relating to custody or visitation and the court has jurisdiction to hear these matters, the court shall set a separate hearing for those issues after entry of the order.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-790. Establishment of paternity.

(A) The division may establish paternity of a child in the course of a negotiation conference held pursuant to Section 63-17-750 based upon an application for services or receipt of services by the custodian pursuant to Title IV-D of the Social Security Act. Service on the alleged father pursuant to this section must be made as provided in Section 63-17-740. In addition to the notice of financial responsibility as set forth in Section 63-17-730, the division must serve the alleged father with a notice of paternity determination which shall include:

- (1) an allegation that the alleged father is the natural father of the child involved;
- (2) the child's name and date of birth;
- (3) the name of the child's mother and the name of the person or agency having custody of the child, if other than the mother;
- (4) a statement that if the alleged father fails to timely deny the allegation of paternity, the question of paternity may be resolved against the alleged father without further notice;
- (5) a statement that if the alleged father timely denies the allegation of paternity:
 - (a) the alleged father is subject to compulsory genetic testing and that expenses incurred may be assessed against the alleged father if he is found to be the father;
 - (b) a genetic test may result in a presumption of paternity; and
 - (c) upon receipt of the genetic test results, if the alleged father continues to deny paternity, the alleged father may request the division to refer the matter to Family Court for a determination of paternity pursuant to Section 63-17-780. An order for child support resulting from a subsequent finding of paternity is effective from the date the alleged father was served with the notice of paternity determination.

(B) The alleged father may file a written denial of paternity with the division within thirty days after service of the notice of paternity determination.

(C) When there is more than one alleged father of a child, the division may serve a notice of paternity determination on each alleged father in the same consolidated proceeding or in separate proceedings. Failure to serve notice on an alleged father does not prevent the division from serving notice on any other alleged father of the same child.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-800. Paternity testing.

(A) If the testimony and other supplementary evidence presented at the negotiation conference demonstrate a reasonable probability that the alleged father had sexual intercourse with the child's mother during the probable time of the child's conception or if the evidence shows a probable existence of a presumption, the division may issue a subpoena ordering the alleged father to submit to paternity genetic testing. A reasonable probability of sexual intercourse during the possible time of conception may be established by affidavit of the child's mother.

(B) If the division does not receive a timely written denial of paternity or if an alleged father fails to appear at the negotiation conference or for a scheduled paternity test, the division may enter an order declaring the alleged father the legal father of the child. The order takes effect fifteen days after entry of default unless the alleged father before the fifteenth day presents good cause for failure to make a timely denial or for failure to appear at the negotiation conference or to undergo genetic testing. The division may not enter an order under this section if there is more than one alleged father unless the default applies to only one alleged father and all other alleged fathers have been excluded by the results of genetic testing. If there is more than one alleged father who has not been excluded by the results of genetic testing, the division may petition the court for a hearing to establish paternity.

(C) If the rights of others and the interests of justice require, the division may apply to any Family Court for an order compelling an alleged father to submit to genetic testing. The court shall hear the matter as expeditiously as possible. If the court finds reasonable cause to believe that the alleged father is the natural or presumed father of the child, the court shall enter an order compelling the alleged father to submit to a genetic test. As provided in subsection (A), reasonable cause may be established by affidavit of the

child's mother.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-810. Qualified expert; admissibility of report.

The division shall appoint an expert who is qualified in examining genetic markers to conduct any genetic test. If the issue of paternity is referred to the Family Court, the expert's completed and certified report of the results and conclusions of a genetic test is admissible as evidence without additional testing or testimony. An order entered pursuant to this article establishes legal paternity for all purposes.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-820. Out-of-state request to establish support.

(A) The division may establish all duties of support including the duty to pay any arrearage and may enforce duties of support from an obligor pursuant to this article if that action is requested by an agency of another state which is operating under Title IV-D of the federal Social Security Act, as amended.

(B) If the division proceeds against an obligor under subsection (A), it shall seek establishment and enforcement of the liability imposed by the laws of the state where the obligor was located during the period for which support is sought. The obligor is presumed to have been present in this State during the period until otherwise shown.

(C) If the obligee is absent from this State and the obligor presents evidence which constitutes a defense, the obligor shall request a court hearing.

(D) The remedies provided by this article are additional to those remedies provided by the "Uniform Interstate Family Support Act".

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-830. Modification of orders.

(A) At any time after the entry of a consent order or an order for default under this article or an order of the court the division may issue a notice of financial responsibility to an obligor requesting the modification of an existing order issued pursuant to this article or an existing order of the court. The division shall serve the obligor with a notice of financial responsibility as provided in Section 63-17-730 and shall proceed as set forth in this article. The obligor or obligee may file a written request for modification of an order issued under this article or an existing order of the court with the division by serving the division by certified mail. If the division does not object to the request for modification based upon a showing of changed circumstances as provided by law, the division shall serve the obligor with a notice of financial responsibility as provided in Section 63-17-730 and shall proceed as set forth in this article. If the division objects to the request for modification based upon the failure to demonstrate a showing of changed circumstances, the division shall advise the obligor or obligee that a petition for review may be filed with the Family Court.

(B) A request for modification made pursuant to this section does not preclude the division from enforcing and collecting upon the existing order pending the modification proceeding.

(C) Only payments accruing subsequent to the modification may be modified. Modification must be made pursuant to Section 20-3-160.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-840. Administrative change of payee.

In cases in which support is subject to an assignment or a requirement to pay through any state disbursement unit which may be established, the division or its designee may direct the obligor or the payor to change the payee to the appropriate government entity. The division shall provide written notification of this change to the obligor and the obligee not less than ten days before the effective date of the change.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-850. Issuance of subpoenas.

When necessary in the discharge of the duties of the department to establish, modify, or enforce a child support order, the department may issue an administrative subpoena or subpoena duces tecum to a state, county, or local agency, board or commission, or to any private entity or individual or to any representative of a state, county, or local agency, board or commission, or private entity to compel the production of documents, books, papers, correspondence, memoranda, and other records relevant to the discharge of the department's duties. The department may assess a civil fine of one hundred dollars per occurrence for failure to obey a subpoena or subpoena duces tecum issued pursuant to this section, in addition to any other remedies as permitted by law. A subpoena or subpoena duces tecum issued under this section may be enforced pursuant to Section 63-3-530.

HISTORY: 2008 Act No. 361, Section 2.

ARTICLE 7

Child Support Enforcement through License Revocation

SECTION 63-17-1010. License revocation.

In addition to other qualifications necessary for holding a license, an individual who is under an order for child support also is subject to the provisions of this article.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1020. Definitions.

As used in this article:

- (1) "Arrearage" means the total amount overdue under an order of support.
- (2) "Compliance with an order for support" means that pursuant to an order for support the person required to pay under the order is in arrears no more than five-hundred dollars and has paid the full child support obligation for the last two consecutive months.
- (3) "Director" means the Director of the Child Support Enforcement Division of the State Department of Social Services or his designee.
- (4) "Division" means the Child Support Enforcement Division of the State Department of Social Services.
- (5) "License" means:
 - (a) a certificate, license, credential, permit, registration, or any other authorization issued by a licensing entity that allows an individual or is required of an individual to engage in a business, occupation, or profession and includes, but is not limited to, a medical license, teaching certificate, commission and certificate of training from the South Carolina Criminal Justice Academy for a sworn law enforcement officer, and a hunting, fishing, or trapping license for commercial use and the privilege to hunt, fish, or trap or hold a hunting, fishing, or trapping license for commercial use;
 - (b) a driver's license and includes, but is not limited to, a beginner's or instruction permit, a restricted driver's license, a motorcycle driver's license, or a commercial driver's license;
 - (c) a hunting, fishing, or trapping license for recreational purposes and the privilege to hunt, fish, or trap or hold a hunting, fishing, or trapping license for recreational purposes;
 - (d) a watercraft registration."License" does not include the authority to practice law; however, the Supreme Court may consider as an additional ground for the discipline of members of the bar the wilful violation of a court order including an order for child support. The department has grounds to file a grievance with the Supreme Court if a licensed attorney is in wilful violation of a court order for child support.
- (6) "Licensee" means an individual holding a license issued by a licensing entity.
- (7) "Licensing entity" or "entity" means, for the purposes of issuing or revoking a license, a state, county, or municipal agency, board, department, office, or commission that issues a license.
- (8) "Order for support" means an order being enforced by the division under Title IV-D of the Social Security Act and which provides for periodic payments of funds for the support of a child or maintenance of a spouse or former spouse and support of a child, whether temporary or final and includes, but is not limited to, an order for reimbursement for public assistance or an order for making periodic payments on a support arrearage.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1030. Exceptions.

If a licensee is out of compliance with an order for support, the licensee's license must be revoked unless within forty-five days of receiving notice that the licensee is out of compliance with the order, the licensee has paid the arrearage owing under the order or has signed a consent agreement with the division establishing a schedule for payment of the arrearage.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1040. Obtaining information.

The division shall obtain information on licensees pursuant to Section 63-17-1050 for the purposes of establishing, enforcing, and collecting support obligations.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1050. Licensing entities to provide information.

In the manner and form prescribed by the division, all licensing entities monthly shall provide the division information on licensees for use in the establishment, enforcement, and collection of child support obligations including, but not limited to:

- (1) name;
- (2) address of record;
- (3) social security number;
- (4) employer's name and address;
- (5) type of license;
- (6) effective date of license or renewal;
- (7) expiration date of license;
- (8) active or inactive license status.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1060. Out-of-compliance procedures; notice.

(A) The division shall review the information received pursuant to Section 63-17-1050 and determine if a licensee is out of compliance with an order for support. If a licensee is out of compliance with the order for support, the division shall notify the licensee that forty-five days after the licensee receives the notice of being out of compliance with the order, the licensing entity will be notified to revoke the licensee's license unless the licensee pays the arrearage owing under the order or signs a consent agreement establishing a schedule for the payment of the arrearage.

(B) Upon receiving the notice provided for in subsection (A), the licensee may:

(1) request a review with the division; however, issues the licensee may raise at the review are limited to whether the licensee is the individual required to pay under the order for support and whether the licensee is out of compliance with the order of support; or

(2) request to participate in negotiations with the division for the purpose of establishing a payment schedule for the arrearage.

(C) The division director or the division director's designees are authorized to and upon request of a licensee shall negotiate with a licensee to establish a payment schedule for the arrearage. Payments made under the payment schedule are in addition to the licensee's ongoing obligation under the order for support.

(D) Upon the division and the licensee reaching an agreement on a schedule for payment of the arrearage, the director shall file an agreement and order pursuant to Section 63-17-750(A) and (B) with the family court in the county in which the order for support was issued. The clerk shall stamp the date of receipt of the agreement and order and shall file it under the docket number of the order of support. The agreement and order shall have all the force, effect, and remedies of an order of the court including, but not limited to, wage assignment and contempt of court.

(E) If the licensee and the division do not reach an agreement establishing a schedule for payment of the arrearage, the licensee may petition the court to establish a payment schedule. However, this action does not stay the license revocation procedures.

(F) The notification given a licensee that the licensee's license will be revoked in forty-five days clearly must state the remedies and procedures available to a licensee under this section.

(G) If at the end of the forty-five days the licensee still has an arrearage owing under the order for support or the licensee has not signed a consent agreement establishing a payment schedule for the arrearage, the division shall notify the licensing entity to revoke the licensee's license. A license only may be reinstated if the division notifies the licensing entity that the licensee no longer has an arrearage or that the licensee has signed a consent agreement.

(H) Review with the division under this section is the licensee's sole remedy to prevent revocation of his or her license. The licensee has no right to appeal the revocation with the licensing entity.

(I) If a licensee under a consent order entered into pursuant to this section, for the payment of an arrearage subsequently is out of compliance with an order for support, the division immediately may notify the licensing entity to revoke the license and the procedures provided for under subsection (B) do not apply; however the appeal provisions of subsection (H) apply. If upon revocation of the license the licensee subsequently enters into a consent agreement or the licensee otherwise informs the department of compliance, the department shall notify the licensing entity within fourteen days of the determination of compliance and the license must be reissued.

(J) Notice required to the licensee under this section must be deposited in the United States mail with postage prepaid and addressed to the licensee at the last known address. The giving of the notice is considered complete ten days after the deposit of the notice. A certificate that the notice was sent in accordance with this article creates a presumption that the notice requirements have been met even if the notice has not been received by the licensee.

(K) Nothing in this section prohibits a licensee from filing a petition for a modification of a support order or for any other applicable relief. However, no such petition stays the license revocation procedure.

(L) If a license is revoked under this section, the licensing entity is not required to refund any fees paid by a licensee in connection with obtaining or renewing a license, and any fee required to be paid to the licensing entity for reinstatement after a license

revocation applies. The division will indemnify the applicable licensing entity from any consequences that may result from the revocation of the licensee's license.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1070. Disclosure of information.

(A) Information provided to a licensing entity pursuant to this section is subject to disclosure in accordance with the Freedom of Information Act.

(B) A person who releases information received by a licensing entity pursuant to this section, except as authorized by this section or another provision of law, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1080. Social Security numbers to be provided.

An applicant for a license or for renewal of a license shall submit the applicant's social security number, or the alien identification number assigned to a resident alien who does not have a social security number, to the licensing entity which must be recorded on the application.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1090. Regulations.

The State Department of Social Services shall promulgate regulations necessary to carry out this article and shall consult with licensing entities in developing these regulations.

HISTORY: 2008 Act No. 361, Section 2.

ARTICLE 9

Employer New Hire Reporting Program

SECTION 63-17-1210. Employer New Hire Reporting program.

(A) By January 1, 1996, the Child Support Enforcement Division of the Department of Social Services shall create and develop an Employer New Hire Reporting program. The Employer New Hire Reporting program shall provide a means for employers to voluntarily assist in the state's efforts to locate absent parents who owe child support and collect child support from those parents by reporting information concerning newly hired and rehired employees directly to the division.

(B) The following provisions apply to the Employer New Hire Reporting program:

(1) An employer doing business in this State may participate in the Employer New Hire Reporting program by reporting to the Child Support Enforcement Division:

(a) the hiring of a person who resides or works in this State to whom the employer anticipates paying earnings; or

(b) the rehiring or return to work of an employee who was laid off, furloughed, separated, granted leave without pay, or terminated from employment.

(2) The Employer New Hire Reporting program applies to a person who is expected to:

(a) be employed for more than one month's duration;

(b) be paid for more than three hundred fifty hours during a continuous six-month period; or

(c) have gross earnings of more than three hundred dollars in each month of employment.

(3) An employer who voluntarily reports under item (1) shall submit monthly reports regarding each hiring, rehiring, or return to work of an employee during the preceding month. The report must contain:

(a) the employee's name, address, social security number, date of birth, and salary information; and

(b) the employer's name, address, and employer identification number.

(4) Employers reporting to the Employer New Hire Reporting program shall provide information to the Child Support Enforcement Division by:

(a) sending a copy of the new employee's W-4 form;

(b) completing a form supplied by the Child Support Enforcement Division; or

(c) any other means authorized by the Child Support Enforcement Division for conveying the required information, including electronic transmission or magnetic tapes in compatible formats.

(5) An employer is authorized by this section to disclose the information described in item (3) and is not liable to the employee for the disclosure or subsequent use by the Child Support Enforcement Division of the information.

(6) Information received by the South Carolina Department of Employment and Workforce from employers which includes information contained in the reports provided for in this section must be transmitted to the Department of Social Services within fifteen working days after the end of each quarter.

HISTORY: 2008 Act No. 361, Section 2.

ARTICLE 11

Income Withholding to Enforce Child Support

SECTION 63-17-1410. Definitions.

As used in this section:

(1) "Arrearage" means the total amount of unpaid support obligations.

(2) "Court" as used in this section means Family Court.

(3) "Delinquency" means when a support payment owed by an obligor pursuant to an order of support is overdue in an amount equal to at least one month's support obligation.

(4) "Income" means any periodic form of payment to an individual regardless of source including, but not limited to, wages, salary, commission, bonuses, compensation as an independent contractor, workers' compensation, disability, annuity and retirement benefits, payments made pursuant to a retirement program, interest, and any other payments made by a person or an agency or department of the federal, state, or local government provided the income excludes:

(a) amounts required by law to be withheld, other than creditor claims, including, but not limited to, federal, state, and local taxes, social security and other retirement deductions, and disability contributions;

(b) amounts exempted by federal law;

(c) public assistance payments.

Any other state or local laws which limit or exempt income or the amount or percentage of income that can be withheld do not apply.

(5) "Obligee" means an individual or the individual's assignee who is entitled to receive payments pursuant to an order of support.

(6) "Obligor" means an individual who is required to make payments pursuant to order for support.

(7) "Order for support" means any order of a court or an administrative agency of competent jurisdiction which provides for periodic payments of funds for the support of a child or maintenance of a spouse or former spouse, whether temporary or final, whether incidental to a proceeding for divorce, separation, separate maintenance, paternity, guardianship, or otherwise and includes any order providing for a modification of support payment of an arrearage or reimbursement of support.

(8) "Payor" means any payor of income to an obligor. For purposes of this section, the South Carolina Department of Employment and Workforce is not considered to be a payor.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1420. Orders for support subject to withholding notice.

(A) For all Title IV-D cases in which support orders are issued or modified after October 31, 1990, and for all nontitle IV-D cases in which support orders are issued or modified after January 3, 1994, the income of an obligor is subject to immediate withholding as of the effective date of the order without the requirement that an arrearage accumulate. However, income is not subject to withholding if:

(1) one of the parties demonstrates and the court finds that there is good cause not to require immediate income withholding; or

(2) a written agreement is reached between both parties which provides for an alternative arrangement.

(B) All orders for support entered or modified in the State before October 1, 1996, if not otherwise subject to wage withholding, are subject to withholding if a delinquency occurs without the need for a judicial or administrative hearing. These orders must be construed to contain this withholding provision even if the provision has been omitted from the written order; however, the court may order withholding to begin immediately for good cause shown. The court is required to make specified written findings to support immediate withholding.

(C) Income withholding must be initiated in all Title IV-D cases upon the request of the obligee without the necessity of a

delinquency, if the State approves the request in accordance with the procedures and standards as it may establish. If the obligee requests income withholding pursuant to this section, notice of the request must be provided to the obligor by the clerk of court, and if the obligor objects to the income withholding within ten days after the postmarked date of the notice, a hearing must be held, and the family court shall subject the obligor's income to withholding unless the court finds that there is good cause not to require immediate income withholding. Where there is no objection by the obligor after proper notice, the clerk of court shall implement immediate income withholding.

(D) If an obligor, whose wages are not withheld and who is not required to pay through the family court, is found to be, or is found to have been, delinquent pursuant to an order for support in an amount equal to three or more month's support obligation, the clerk of court must order the obligor's wages enrolled for wage withholding to begin immediately for the payment of the obligor's support obligation, even if the arrearage has been fully or partially paid at the time of the hearing.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1430. Petitioning the court.

(A) An obligor may petition the court at any time prior to the occurrence of a delinquency seeking an order for income withholding procedures to begin immediately.

(B) Where the obligor makes payments directly to the obligee pursuant to an order for support and where income withholding procedures take effect, the provisions to pay directly are superseded by the withholding process and the obligor and the payor on behalf of the obligor during the period of withholding must pay this support through the State Disbursement Unit.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1440. Verified notice of delinquency.

(A) If a delinquency occurs, the clerk of court shall prepare, file, and serve on the obligor a verified notice of delinquency within fifteen calendar days of the delinquency if the obligor's address is known or if the address is not known, within fifteen calendar days of locating the obligor. If the obligor makes payments pursuant to an order for support directly to the obligee and the obligee seeks income withholding, the notice of delinquency must be verified by the obligee and then served on the obligor by the clerk of court as with any other notice of delinquency.

(B) The verified notice of delinquency must be served on the obligor by regular mail addressed to the obligor's last known address or place of employment. Upon mailing the notice, the clerk of court shall file a certificate of mailing stating the name and address to which the notice was mailed and the date on which it was mailed. If service cannot be effected as set forth in this section, the obligor may be served as prescribed for service in civil actions.

(C) The notice of delinquency shall inform the obligor that a delinquency has occurred and shall recite the monthly support obligations of the obligor pursuant to the order of support, the total amount of the arrearage as of the date of the notice, and the amount of income to be withheld. The notice must clearly state that a notice to withhold will be sent to the obligor's current or subsequent payor, income withholding will begin, and that a judgment lien may be imposed against the obligor's personal or real property in the amount of the arrearage pursuant to Section 63-17-1600, unless the obligor files a petition to stay service in accordance with Section 63-17-1450.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1450. Petitions to stay service.

(A) The obligor may prevent a notice to withhold from being served on the obligor's payor and prevent the recording of the arrearage pursuant to Section 63-17-1600 by filing a petition to stay service with the clerk of court with jurisdiction of the matter within ten days of the date that the notice of delinquency is postmarked; however, the grounds for granting the petition to stay service are limited to a dispute concerning the identity of the obligor or the existence or amount of the arrearage.

(B) Filing of a petition to stay service within the ten days required under this section prohibits the clerk of court from serving the notice to withhold on any payor of the obligor and prohibits the recordation of the arrearage.

(C) If a petition to stay service is filed, a hearing on the petition must be held within thirty days of its filing. The obligor, obligee, and Department of Social Services, where appropriate, must be notified by the clerk of court of the date, time, and place of the hearing and the court must decide the matter, notify the obligor, and enter an order granting or denying relief or amending the notice of delinquency within forty-five days of the date the notice of delinquency was mailed to the obligor. If the court finds that a delinquency existed when the notice of delinquency was mailed, the court shall order immediate service of the notice to withhold and the arrearage may be recorded immediately pursuant to Section 63-17-1600. The court shall inform the obligor of the time frame within which withholding is to begin and shall provide the obligor in writing with the information contained in the notice to withhold to be served on the payor with respect to the withholding.

(D) Upon filing an affidavit with the court stating that a petition to stay service was not timely filed because the notice of delinquency was not received and that grounds exist for a petition to stay service as stated in subsection (A), the obligor is permitted to file a petition to withdraw the notice to withhold, terminate the withholding procedures, and remove the judgment created by the recording of the arrearage. Income withholding, however, may not be interrupted unless the court enters an order granting the relief sought by the obligor based on the limited grounds for a petition to stay service.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1460. Notice to withhold.

(A) Fifteen days following the mailing of the notice of the delinquency to the obligor and if no petition to stay service has been filed, the clerk of court shall serve a notice to withhold on the payor or its agent by regular mail and may record the arrearage pursuant to Section 63-17-1600.

(B) The notice to withhold shall:

(1) direct any payor to withhold at the obligor's regularly scheduled pay periods an amount which over the period of one month would constitute one month's support obligation plus applicable fees pursuant to this article and costs as provided by Section 63-3-370;

(2) direct any payor to withhold an additional amount toward any arrearage until the arrearage is paid in full; however, amounts to be withheld under this item and item (1) may not exceed the limits set forth by the Federal Consumer Credit Protection Act (15 U.S.C. Section 1673(b));

(3) direct any payor to notify the clerk if health insurance is available to the obligor for the benefit of children for whom child support is being withheld;

(4) state the rights, responsibilities, and liabilities of the payor under this article.

(C) The payor shall then deduct the designated amount pursuant to the notice to withhold beginning no later than the next regularly scheduled pay period following the pay period during which the payor was served. Payors need not change their regular payroll pattern and may combine all withheld amounts into one payment to the State Disbursement Unit with an itemized statement showing accounts attributable to each obligor for each obligee. For each instance of withholding of income, the payor is entitled to receive a fee of up to three dollars to be deducted from the income of the obligor in addition to the amounts withheld pursuant to the notice to withhold unless the fee is waived by the payor.

(D) If there is more than one notice to withhold on a single obligor, the payor must comply with the notices by withholding the amounts designated in the notices to the extent possible pursuant to the Federal Consumer Credit Protection Act (15 U.S.C. Section 1673(b)). If the payor cannot fully comply with the notices because the amounts to be withheld would exceed the limits under the Federal Consumer Credit Protection Act, the payor shall notify the court in writing as to its reasons for failing to fully comply. Priority must be given to current support obligations. In no case may the allocation result in a withholding for one of the support obligations not being implemented.

(E) The employer shall promptly pay the amount withheld to the State Disbursement Unit within seven working days of the date income is withheld, in accordance with the notice to withhold and in accordance with any notification received from the clerk of court concerning withholding. The payor shall provide the date on which the income is withheld.

(F) After the obligor's arrearage has been satisfied, the clerk of court shall serve the payor by regular mail a notice of reduction of withholding. The notice shall inform the payor of the satisfied amount and direct the payor to discontinue withholding the additional amount as prescribed in the notice.

(G) Within twenty days after the obligor is no longer employed by the payor, the payor shall return a copy of the notice to withhold to the clerk of court and shall notify the clerk of court in writing of the date the obligor's employment terminated, the date of the obligor's final paycheck, the obligor's home address, and obligor's new employer and address, if known.

(H) Withholding of income from an obligor under this article has priority over any other legal process under state law against the same wages. Payment pursuant to a notice to withhold is a complete defense by the payor against any claims of the obligor or the obligor's creditors as to the sum paid.

(I) No payor may discharge, refuse to hire, or otherwise penalize any obligor because of the duty to withhold income.

(J) The responsibility of a payor who employs an obligor to withhold support from the pay of the obligor ends when the obligor leaves the employ of the payor. If this termination of employment occurs during the middle of a pay period, the final amount required to be withheld must be proportionately reduced in the same percentage that the time worked has to the time of the full pay period.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1470. Termination or suspension of withholding.

(A) The clerk of court may suspend income withholding because of inability to deliver the income withheld to the obligee due to the obligee's failure to provide a mailing address or other means of delivery. Upon relocating the obligee and upon meeting the requirements of notice and service pursuant to this article, income withholding must be reinstated.

(B) An obligor may petition the court at any time to terminate income withholding pursuant to a notice to withhold:

(1) if there is no longer a current order for support and all arrearages are paid; or

(2) if the obligor requests termination and withholding has not been terminated previously and subsequently reinstated and the obligor meets the conditions for an alternative arrangement.

However, if termination is granted and subsequently a delinquency occurs, the clerk of court shall reinstate withholding procedures

by complying with all requirements for notice and service pursuant to this article.

(C) The clerk of court shall serve on the payor by regular mail a copy of any order entered pursuant to this section or Section 63-17-1450(D) that affects the duties of the payor. If service cannot be effected as set forth in this section, the payor may be served as prescribed for service in civil actions.

(D) The notice to withhold continues to be binding upon the payor until service of any order of the court entered under this section or Section 63-17-1450(D) or until notice is served on the payor by the clerk of court that the underlying order is, for other reasons such as expiration of the support obligation, no longer in effect.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1480. Change of address notification.

An obligee who is receiving income withholding payments under this article shall notify the clerk of court of any change of address within seven days of the change.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1490. Obligee's public aid status.

An obligee who is a recipient of public aid must send a copy of any notice of delinquency filed pursuant to Section 63-17-1440 to the Division of Child Support of the South Carolina Department of Social Services.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1500. Notification upon employment.

An obligor whose income is being withheld or who has been served with a notice of delinquency pursuant to this article shall notify the clerk of court of any new payor and of the availability of health insurance for any children for whom support is ordered within seven days after employment commences.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1510. Unemployment benefits notification.

If the Division of Child Support of the Department of Social Services is notified by the South Carolina Department of Employment and Workforce in accordance with Section 41-35-140 that an obligor is receiving unemployment insurance benefits, the division must notify the court for the intercept of unemployment insurance benefits if a delinquency occurs and the obligor's case is a Title IV-D case. The intercept of unemployment insurance benefits must be in accordance with Section 41-35-140.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1520. Reporting receipt of payment toward arrearage.

Upon receiving any other support payment including, but not limited to, a tax offset under federal or state law or any payment toward an arrearage, the Department of Social Services, within the time permitted by Title IV-D of the Social Security Act, shall provide notice of the payment to the clerk of court.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1530. Record of payments and disbursements.

Copies of support payment records certified by the Department of Social Services or the clerk of court shall, without further proof, be admissible as evidence in a dispute concerning support payments.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1540. Forms.

The Department of Social Services and the Office of Court Administration shall design suggested legal forms for proceeding under this article and shall make available to the courts for distribution to parties in support actions these forms and informational materials which describe the procedures and remedies set forth in this article.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1550. Payor's wilful failure to withhold.

If a payor wilfully fails to withhold or pay over income pursuant to a notice to withhold, the court upon notice and hearing may enter judgment and direct the issuance of an execution against the payor for the total amount that the payor wilfully failed to withhold. A payor who wilfully refuses to hire or who discharges or otherwise penalizes an obligor as prohibited by Section 63-17-1460(l) or who fails to notify the clerk of the availability of health insurance is subject to a civil fine not to exceed five hundred dollars which may be imposed by the court in its discretion.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1560. False proceedings; contempt.

If an obligor, obligee, or the Department of Social Services wilfully initiates a false proceeding under this article or wilfully fails to comply with the requirements of this article, punishment for contempt may be imposed.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1570. Additional rights and remedies.

The rights, remedies, duties, and penalties created by this article are in addition to any other rights, remedies, duties, and penalties otherwise provided by law.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1580. Centralized system of withholding.

Amounts collected through the State Disbursement Unit are subject to court costs pursuant to Section 63-3-370(C), with disposition of all these fees made in accordance with Section 14-1-203. Employers shall make payment of the amount withheld to the State Disbursement Unit within seven working days of the date income is withheld. The department shall, in compliance with federal requirements, disburse child support funds received from employers to the custodial parent.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1590. Authority to promulgate regulations.

The Office of Court Administration after consultation with the Department of Social Services is authorized to promulgate those regulations necessary to implement this subarticle.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 4.

SECTION 63-17-1600. Recording arrearages.

When a delinquency occurs as defined in Section 63-17-1410, the obligor must be given notice pursuant to Section 63-17-1440 of the proposed lien. Where no petition to stay service is timely filed or where no relief is granted to the obligor pursuant to Section 63-17-1450, the arrearage may be recorded or provided for in Section 63-17-1460 in the appropriate index in the office of the Clerk of Court or Register of Deeds. Upon recordation the arrearage has the same force and effect as a judgment and it is cumulative to the extent of any and all past due support, until the arrearage is paid in full. The judgment may be recorded in any county in which the obligor resides or in which he owns real property by the filing of a transcript of judgment in that county. A lien imposed pursuant to this section is not dischargeable in bankruptcy.

HISTORY: 2008 Act No. 361, Section 2.

ARTICLE 13

Income Withholding to Enforce Support Obligations on Income Earned Out-of-State

SECTION 63-17-1810. Definitions.

As used in this article:

- (1) "Agency" means the clerk of court of this State and, when the context requires, means either the court or agency of any other jurisdiction with functions similar to those defined in this chapter, including the issuance and enforcement of support orders.
- (2) "Child" means any child, whether above or below the age of majority, with respect to whom a support order exists.
- (3) "Court" means the family court of this State and, when the context requires, means either the court or agency of any other jurisdiction with functions similar to those defined in this chapter, including the issuance and enforcement of support orders.
- (4) "Income" means any form of payment to an individual as defined in Section 63-17-1410.
- (5) "Income derived in this jurisdiction" means any income, the payor of which is subject to the jurisdiction of this State for the purpose of imposing and enforcing income withholding under Section 63-17-1410.
- (6) "Jurisdiction" means any state or political subdivision, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.
- (7) "Obligee" means any person or entity which is entitled to receive support under an order of support and includes an agency of another jurisdiction to which a person has assigned his right to support.
- (8) "Obligor" means any person required to make payments under the term of a support order for a child, spouse, or former spouse.

(9) "Payor" means any payor of income.

(10) "Support order" means an order of a court which provides for periodic payments of funds for the support of a child or maintenance of a spouse or former spouse and support of a child, whether temporary or final, whether incidental to a proceeding for divorce, separation, separate maintenance, paternity, guardianship, or otherwise and includes an order providing modification of support payment of an arrearage or reimbursement of support.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1820. Supplemental remedy.

The remedy provided in this article is in addition to, and not in substitution for, any other remedy otherwise available to enforce a support order of another jurisdiction. Relief under this article may not be denied, delayed, or otherwise affected because of the availability of other remedies, nor may relief under any other statute be delayed or denied because of the availability of this remedy.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1830. Order to withhold income out-of-state.

On behalf of any obligee for whom the clerk of court is already providing services, or on application of a resident of this State, an obligee or obligor of a support order issued by this State, or an agency to whom the obligee has assigned support rights, the clerk of court shall promptly request the agency of another jurisdiction in which the obligor of a support order derives income to enter the order for the purpose of obtaining income withholding against the income. The clerk of court shall compile and transmit promptly to the agency of the other jurisdiction all documentation required to enter a support order for this purpose. The clerk of court also shall transmit immediately to the agency of the other jurisdiction a certified copy of any subsequent modifications of the support order. If the clerk of court receives notice that the obligor is contesting income withholding in another jurisdiction, it shall immediately notify the individual obligee of the date, time, and place of the hearings and of the obligee's right to attend.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1840. Out-of-state order on in-state obligor.

(A) Upon receiving a support order of another jurisdiction with the documentation specified in subsection (B) of this section from an agency of another jurisdiction an obligee, an obligor, or an attorney for either, the clerk of court shall enter this order.

(B) The following documentation is required for the entry of a support order of another jurisdiction:

- (1) a certified copy of the support order with all modifications;
- (2) a certified copy of an income withholding order, if any, still in effect;
- (3) a copy of the portion of the income withholding statute of the jurisdiction which issued the support order which states the requirements for obtaining income withholding under the law of that jurisdiction;
- (4) a sworn statement of the obligee or certified statement of the agency of the arrearages and the assignment of support rights, if any;
- (5) a statement of:
 - (a) the name, address, and social security number of the obligor, if known;
 - (b) the name and address of the obligor's employer or of any other source of income of the obligor derived in this State against which income withholding is sought;
 - (c) the name and address of the agency or person to whom support payments collected by income withholding must be transmitted.

(C) If the documentation received by the clerk of court under subsection (A) of this section does not conform to the requirements of subsection (B) of this section, the clerk of court shall remedy any defect which it can without the assistance of the requesting agency or person. If the clerk of court is unable to make such corrections, the requesting agency, or person, shall immediately be notified of the necessary additions or corrections. The clerk of court shall accept the documentation required by subsections (A) and (B) of this section even if it is not in the usual form required by state or local rules, so long as the substantive requirements of these subsections are met.

(D) A support order entered under subsection (A) of this section is enforceable by income withholding against income derived in this State in the manner and with the effect as set forth in Sections 63-17-1850 through 63-17-1920 and in Article 11. Entry of the order does not confer jurisdiction on the courts of this State for any purpose other than income withholding.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1850. Notice of delinquency.

(A) On the date a support order is entered pursuant to Section 63-17-1840, the clerk of court shall serve upon the obligor, in accordance with Section 63-17-1440, a verified notice of delinquency. The notice shall also advise the obligor that the income

withholding was requested on the basis of a support order of another jurisdiction.

(B) If the obligor seeks a hearing to contest the proposed income withholding the clerk of court shall immediately notify the requesting agency and the Department of Social Services when the request for withholding was from an agency, the obligee, obligor, or an attorney for either of the date, time, and place of the hearing and of the obligee's right to attend the hearing.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1860. Hearing.

(A) At any hearing contesting proposed income withholding based on a support order entered under Section 63-17-1840, the entered order, accompanying sworn or certified statement, and a certified copy of an order for withholding, if any, still in effect constitutes prima facie proof, without further proof or foundation, that the support order is valid, that the amount of current support payments and arrearages is as stated, and that the obligee is entitled to income withholding under the law of the jurisdiction which issued the support order.

(B) Once a prima facie case is established, the grounds that may be raised by an obligor to contest the withholding are limited to dispute concerning the identity of the obligor or the existence or amount of the arrearage. The burden is on the obligor to establish these defenses. The burden is on the obligor to establish these defenses.

(C) If the obligor presents evidence which constitutes a full or partial defense, the court shall, on the request of the obligee, continue the case to permit further evidence relative to the defense to be adduced by either party but if the obligor acknowledges liability sufficient to entitle the obligee to income withholding, the court shall require income withholding for the payment of current support payments under the support order and of so much of any arrearage as is not in dispute, while continuing the case with respect to those matters still in dispute. The court shall determine those matters still in dispute as soon as possible, and if appropriate shall modify the withholding order to conform to that resolution but may not modify the underlying support order.

(D) In addition to other procedural devices available to a party, any party to the proceeding or a guardian ad litem or other representative of the child may adduce testimony of witnesses in another state, including the parties and any of the children, by deposition, by written discovery, by photographic discovery such as videotaped depositions, or by personal appearance before the court by telephone or photographic means. The court on its own motion may direct that the testimony of a person be taken in another state and may prescribe the manner in which and the terms upon which the testimony must be taken.

(E) A court of this State may request the appropriate court or agency of another state to hold a hearing to adduce evidence, to permit a deposition to be taken before the court or agency, to order a party to produce or give evidence under other procedures of that state, and to forward to the court of this State certified copies of the evidence adduced in compliance with the request.

(F) Upon request of a court or agency of another state the family courts of this State may order a person in this State to appear at a hearing or deposition before the court to adduce evidence or to produce or give evidence under other procedures available in this State. A certified copy of the evidence adduced, such as a transcript or videotape, must be forwarded by the clerk of the court to the requesting court or agency.

(G) A person within this State may voluntarily testify by statement or affidavit in this State for use in a proceeding to obtain income withholding outside this State.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1870. Order.

If the obligor does not request a hearing in the time provided, or if a hearing is held and it is determined that the obligee has or is entitled to income withholding under the local law of the jurisdiction which issued the support order, the clerk of court shall issue a notice to withhold under Section 63-17-1450. The clerk of court shall notify the requesting agency or person of the date upon which withholding must begin.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1880. Income withholding; applicability to out-of-state order.

The provisions of Sections 63-17-1430, 63-17-1440, 63-17-1450, 63-17-1460, 63-17-1470(A), (C), and (D), and 63-17-1510 apply to income withholding based on a support order of another jurisdiction entered under this article and under Articles 11 and 15.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1890. Receipt of payments by State Disbursement Unit; effect of support order.

(A) The notice to withhold shall direct payment to be made to the State Disbursement Unit. The State Disbursement Unit shall promptly transmit payments received pursuant to an order to withhold based on a support order of another jurisdiction entered under this article and under Articles 11 and 15 to the agency or person designated in subitem (c) of item (5) of subsection (B) of Section 63-17-1840.

(B) A support order entered pursuant to Section 63-17-1840 does not nullify and is not nullified by a support order made by a court of this State pursuant to any other law or by a support order made by a court of any other state. Amounts collected by any withholding of income must be credited against the amounts accruing or accrued for any period under any support orders issued either by this State or by a sister state.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 5.

SECTION 63-17-1900. Amendment of withholding order.

(A) The clerk of court, upon receiving a certified copy of any amendment or modification to a support order entered pursuant to Section 63-17-1840, shall initiate, as though it were a support order of this State, necessary procedures to amend or modify the order to withhold of this State which was based upon the entered support order. The court shall amend or modify the order to withhold to conform to the modified support order.

(B) If the clerk of court determines that the obligor has obtained employment in another state or has a new or additional source of income in another state, he shall notify the agency which requested the income withholding of the changes and shall forward to that agency all information it has or can obtain with respect to the obligor's new address and the name and address of the obligor's new employer or other source of income. The clerk of court shall include with the notice a certified copy of the order to withhold in effect in this State.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-1910. Voluntary income withholding.

Any person who is the obligor on a support order of another jurisdiction may obtain voluntary income withholding by filing with the clerk of court a request for withholding and a certified copy of the support order of a sister state. The clerk of court shall issue a notice to withhold under Section 63-17-1450(B). Payment must be made to the State Disbursement Unit.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 6.

SECTION 63-17-1920. Applicability of state law; foreign law.

(A) The law of this State shall apply in all actions and proceedings concerning the issuance, enforcement, and duration of orders to withhold issued by a court of this State, which is based upon a support order of another jurisdiction entered pursuant to Section 63-17-1830, except as provided in subsections (B) and (C) of this section.

(B) The law of the jurisdiction which issued the support order shall govern the following:

- (1) the interpretation of the support order entered under Section 63-17-1840, including amount, form of payment, and the duration of support;
- (2) the amount of support arrearages necessary to require the issuance of an order to withhold;
- (3) the definition of what costs, in addition to the periodic support obligation, are included as arrearages which are enforceable by income withholding, including but not limited to interest, attorney's fees, court costs, and costs of paternity testing.

(C) The court in this State may impose its costs as allowed by law.

HISTORY: 2008 Act No. 361, Section 2.

ARTICLE 15

Medical Child Support and Income Withholding

SECTION 63-17-2110. Contents of order.

To be enforced pursuant to this article, a court order which requires a parent to provide health coverage for a child must:

(1) clearly specify:

- (a) the name, social security number, and last known mailing address, if any, of the parent and the name, social security number, date of birth, and mailing address of each child covered by the order;
 - (b) a reasonable description of the type of coverage to be provided by the plan to each child or the manner in which the type of coverage is to be determined;
 - (c) the period to which the order applies;
 - (d) each plan to which the order applies; and
- (2) not require a plan to provide a type or form of benefit or an option, not otherwise provided under the plan, except to the extent necessary to meet the requirements of this article.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2120. Duties of employer or health insurer.

If a court order requiring a parent to provide health coverage to a child is received by an employer or a health insurer, including a

group health plan as defined in Section 607(1) of the Employee Retirement Income Security Act of 1974 or health maintenance organization as defined in Section 38-33-20:

- (1) the employer or health insurer promptly shall notify the parent and each child of the receipt of the order and the employer's or insurer's procedures for determining whether the order is covered by this article;
- (2) within a reasonable period after receipt of the order, the employer or insurer shall determine whether the order is covered by this article and notify the parent and each child of the determination;
- (3) shall establish reasonable procedures to determine whether the order is covered by this article and to administer the provision of benefits under qualified orders. The procedures must:
 - (a) be in writing;
 - (b) provide for the notification of each person specified in the order as eligible to receive benefits, at the address included in the order, of these procedures promptly upon receipt by the employer or insurer of the order; and
 - (c) permit the court or the child's legal guardian to designate a representative for receipt of copies of notices that are sent with respect to a medical child support order.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2130. Notice of order to employer.

(A) If a parent is required by a court order to provide health coverage for a child and the parent is eligible for family health coverage through an employer in this State, notice and a copy of the order must be sent to the employer. The notice and copy of the order may be sent by first class mail. The notice must explain all of the employer's legal obligations under this article. In cases enforced by the Child Support Enforcement Division of the Department of Social Services, the division shall use the National Medical Support Notice promulgated by the federal Office of Child Support Enforcement. Upon receipt of notice and the order, the employer shall:

- (1) permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;
- (2) if the parent is enrolled but fails to make application to obtain coverage for the child, enroll the child under family coverage upon application of:
 - (a) the child's other parent;
 - (b) the state agency administering the Medicaid program; or
 - (c) the state agency administering 42 U.S.C. Sections 651 to 669, the child support enforcement program; and
- (3) continue coverage of the child unless the employer:
 - (a) is provided satisfactory written evidence that the court order is no longer in effect or that the child is or will be enrolled in comparable health coverage through another insurer which will take effect not later than the effective date of disenrollment; or
 - (b) has eliminated family health coverage for all of its employees.

(B) An employer who has received a copy of a court order pursuant to this section is bound by the order until further notice by the court. The employer shall notify the court within twenty days after the parent named in the order is no longer employed and shall provide the parent's last known address and the name and address of the parent's new employer, if known.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2140. Withholding by employer.

(A) If a court order requires a parent to provide and maintain health coverage for a child and the parent is eligible for family health coverage through an employer, the order shall include a provision directing the employer to withhold from money, income, or periodic earnings due the parent an amount which is sufficient to provide for premiums for the health coverage offered through the employer unless:

- (1) the court finds that under regulations promulgated by the Secretary of the Department of Health and Human Services, circumstances exist warranting withholding less than the employee's share of the premiums; or
 - (2) the amount withheld exceeds the maximum amount permitted to be withheld under the federal Consumer Credit Protection Act.
- (B) Income withholding takes effect immediately upon completion of enrollment requirements.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2150. Proof of compliance.

Within thirty days after receipt of an order requiring the obligated parent to provide health care coverage for a child, the parent or employer must provide the child's other parent written proof that the insurance has been obtained or that an application for insurance has been made. Proof of insurance coverage consists of, at a minimum:

- (1) the name of the insurer;
- (2) the policy number;
- (3) an insurance card;
- (4) the address to which claims must be mailed;
- (5) a description of any restriction on usage including, but not limited to, prior approval for hospital admission and the manner in which to obtain prior approval;
- (6) description of all deductibles;
- (7) five copies of claim forms.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2160. Priority of order.

(A) A court order which requires income withholding pursuant to this article has priority over all other legal processes under state law against money, income, or periodic earnings of the noncustodial parent except an order of income withholding for child support.

(B) A person under a court order to provide and maintain health care coverage as of July 1, 1994, is subject to the income withholding for health coverage provisions of this article. The only ground to contest an order of income withholding for health coverage is a mistake of fact. If the person contests the withholding because of a mistake of fact, the court shall provide the person an opportunity to present his or her case. The court shall determine whether to order withholding and shall notify the person of the determination and, if appropriate, the time period in which withholding will commence.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2170. Withholding to reimburse medical expenses.

(A) To the extent necessary to reimburse the state agency administering the Medicaid program for expenditures on behalf of a child, the agency may petition the court seeking withholding of employment income or state tax refunds from a person who:

- (1) is required by a court order to provide and maintain health coverage for a child who is eligible for medical assistance under a State Plan for Medical Assistance pursuant to Title XIX of the Social Security Act;
- (2) has received payment from a third party for the costs of health care items or services; and
- (3) has not used the payment to reimburse, as appropriate, either the other parent or guardian of the child or the provider of the items or services.

(B) Claims for current or past due child support take priority over claims filed pursuant to this section.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2180. Employer prohibited actions against employee.

An employer is prohibited from discharging, refusing to employ, or taking other disciplinary action against a person because of an income withholding order for health coverage. The person has the burden of proving that income withholding for health coverage was the sole reason for the employer's action.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2190. Penalties.

An employer or insurer who violates any provision of this article is subject to the contempt power of the court issuing the order and may be fined up to fifty dollars per day.

HISTORY: 2008 Act No. 361, Section 2.

ARTICLE 17

Child Support Enforcement Through Data Financial Institution Matches

SECTION 63-17-2310. Clerk of court authority to attempt to locate and right to obtain information from organizations.

(A) The Department of Social Services shall attempt to locate individuals for the purposes of establishing paternity and establishing, modifying, and enforcing child support obligations. In all cases not being administered pursuant to Title IV-D of the

Social Security Act by the department, the clerk of court may attempt to locate individuals for the purpose of enforcing child support obligations. Notwithstanding any other provision of law making this information confidential, these entities in this State promptly shall provide to the department, its designee or a federally approved child support agency of another state, or to the clerk of court, information upon request of the department or another agency for the purpose of establishing paternity or establishing, modifying, or enforcing a support obligation or the clerk of court for the purpose of enforcing child support obligations:

(1) All entities in the State including, but not limited to, for-profit, nonprofit and governmental employers, and labor organizations shall provide the full name, social security number or the alien identification number assigned to a resident alien who does not have a social security number, date of birth, home address, wages or salary, existing or available medical, hospital, and dental insurance coverage, and number of dependents listed for tax purposes on all employees, contractors, and members of labor organizations.

(2) All utility companies, including wire and nonwire telecommunication companies, cable television companies, and financial institutions, shall provide the full name, social security number or the alien identification number assigned to a resident alien who does not have a social security number, date of birth, home address, telephone number, account numbers, and other identifying data, including information on assets and liabilities, on all persons who maintain an account with that entity. For purposes of this item, a financial institution is defined as a federal, state, commercial, or savings bank, savings and loan association, cooperative bank, federal or state chartered credit union, benefit association, insurance company, safe deposit company, money market mutual fund, or investment company doing business in this State.

(3) The appropriate state or local agency of this State shall provide access to information contained in these records:

- (a) vital statistics;
- (b) state and local tax and revenue records;
- (c) records concerning real and titled property;
- (d) records of occupational and professional licenses;
- (e) records concerning the ownership and control of corporations, partnerships, and other business entities;
- (f) employment security records;
- (g) records of motor vehicle departments; and
- (h) corrections records.

A state or local agency, board, or commission that provides information pursuant to this subsection to the department, or to the clerk of court in non-Title IV-D cases, may not charge the department or the clerk of court a fee for providing the information; however, a commission that receives federal grants, the uses of which are restricted, may charge a fee for providing the information.

(B) An entity that provides information pursuant to this section in good faith reliance upon certification by the department, or to the clerk of court in non-Title IV-D cases, that the information is needed to establish paternity or to establish, modify, or enforce a support obligation is not liable for damages resulting from the disclosure.

(C) An entity that fails to provide the requested information within thirty days of the request may be subject to a civil penalty of one hundred dollars for each occurrence. Fines imposed pursuant to this subsection must be enforced as provided for in Section 63-3-530(A)(43) and distributed according to Section 63-17-520.

HISTORY: 2008 Act No. 361, Section 2; 2013 Act No. 74, Section 1, eff June 14, 2013.

SECTION 63-17-2320. Information from financial institutions.

(A) In the manner and form prescribed by the Child Support Enforcement Division, a financial institution, as defined in Section 63-17-2310(A)(2), on a quarterly basis, shall provide the division or its designee information on account holders for use in the establishment, enforcement, and collection of child support obligations including, but not limited to:

- (1) full name;
- (2) social security number or taxpayer identification number, or the alien identification number assigned to a resident alien who does not have a social security number;
- (3) record address;
- (4) account numbers; and
- (5) information on assets and liabilities.

(B) Utilizing automated data exchanges to the maximum extent feasible, a financial institution shall provide for each calendar quarter the name, address, social security number, or the alien identification number assigned to a resident alien who does not have a social security number, and other identifying information for each noncustodial parent who maintains an account at the institution and who owes past-due support, as identified by the division by name and social security number, or the alien identification number assigned to a resident alien who does not have a social security number.

(C) In response to a notice of lien or levy, a financial institution shall encumber or surrender, as the case may be, assets held by the institution on behalf of a noncustodial parent who is subject to a child support lien.

(D) The department shall pay a reasonable fee to a financial institution for conducting the data match, not to exceed the actual costs incurred by the financial institution.

(E) This section remains in effect until the federal mandate requiring the operation of a financial institution data match is repealed.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2330. Immunity from liability.

(A) Notwithstanding any other provision of federal or state law, a financial institution, as defined in Section 63-17-2310(A)(2), is not liable to a person for disclosure of information to the Department of Social Services, its designee, or the department's or designee's employees under Section 63-17-2320 for encumbering or surrendering any deposits, credits, or other personal property in response to a notice of lien or levy by the department, or its designee, or for any other action taken in good faith to comply with the requirements of Sections 63-17-2310 and 63-17-2320.

(B) Upon obtaining a financial record of an individual from a financial institution pursuant to Sections 63-17-2310 and 63-17-2320, the department, its designee, or the department's or designee's employees may disclose the financial record only for the purpose of, and to the extent necessary in, establishing, modifying, or enforcing a child support obligation of the individual.

(C) If the department, its designee, or the department's or designee's employees knowingly or by reason of negligence disclose a financial record of an individual in violation of subsection (B), the individual whose records were disclosed may bring a civil action for damages against the department, its designee, or the department's or designee's employees in a district court of the United States.

(D) No liability arises under subsection (C) with respect to any disclosure which results from a good faith but erroneous interpretation of subsection (B).

(E) In an action brought under subsection (C), upon a finding of liability on the part of the defendant, the defendant is liable to the plaintiff in an amount equal to the sum of:

(1) the greater of:

(a) one thousand dollars for each act of unauthorized disclosure of a financial record with respect to which the defendant is found liable; or

(b) the sum of:

(i) the actual damages sustained by the plaintiff as a result of the unauthorized disclosure; and

(ii) in the case of a wilful disclosure or a disclosure which is the result of gross negligence, punitive damages; and

(2) the costs, including attorney fees, of the action.

HISTORY: 2008 Act No. 361, Section 2.

ARTICLE 19

Credit Reporting of Child Support Arrearages

SECTION 63-17-2510. Reporting to credit reporting agencies.

(A) The Department of Social Services shall provide consumer credit reporting agencies an automated monthly report of obligors in Title IV-D cases who have an arrearage in an amount of one thousand dollars or greater.

(B) The department shall establish procedures for notice and an opportunity for a review for obligors who contest the submission to the consumer credit reporting agency. The procedures shall limit the review to a dispute concerning the identity of the obligor or the existence or amount of the arrearage.

HISTORY: 2008 Act No. 361, Section 2.

ARTICLE 21

Child Support Arrearage Liens

SECTION 63-17-2710. Child support arrearage liens.

A child support obligation which is unpaid in an amount equal to or greater than one thousand dollars, as of the date on which it was due, is a lien in favor of the obligee in an amount sufficient to satisfy unpaid child support, whether the amount due is a fixed sum or is accruing periodically. An amount of restitution established by the Department of Social Services, Child Support Enforcement Division, or its designee (division) or the family court is due and payable as of the date the amount is established. The

lien shall incorporate any unpaid child support which may accrue in the future and does not terminate except as provided in Section 63-17-2730. Upon recordation or registration in accordance with Section 63-17-2730, the lien shall encumber all tangible and intangible property, whether real or personal, and an interest in property, whether legal or equitable, belonging to the obligor. An interest in property acquired by the obligor after the child support lien arises is subject to the lien, subject to the limitations provided in Section 63-17-2730.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2720. Written notice to obligor; administrative review.

When the division determines that child support is unpaid in an amount equal to or greater than one thousand dollars, it shall send written notice to the obligor by first-class mail to the obligor's last known address, as filed with the tribunal pursuant to Section 63-17-450. The notice shall specify the amount unpaid as of the date of the notice or other date certain and the right of the obligor to request an administrative review by filing a written request with the division within thirty days of the date of the notice. If the obligor files a timely written request for an administrative review, the division shall conduct the review within thirty days of receiving the request.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2730. Notice of a lien, filing, expiration.

(A)(1) The division shall file notice of a lien with respect to real property with the register of deeds for any county in the State where the obligor owns property. The social security number, or the alien identification number assigned to a resident alien who does not have a social security number, of the obligor must be noted on the notice of the lien. The filing operates to perfect a lien when recorded, as to any interest in real property owned by the obligor that is located in the county where the lien is recorded. Liens created under this section must be maintained by the register of deeds of each county of the State, in accordance with established local procedures for recordation. If the obligor subsequently acquires an interest in real property, the lien is perfected upon the recording of the instrument by which the interest is obtained in the register of deeds where the notice of the lien was filed within six years prior thereto. A child support lien is perfected as to real property when both the notice thereof and a deed or other instrument in the name of the obligor are on file in the register of deeds for the county where the obligor owns property without respect to whether the lien or the deed or other instrument was recorded first.

(2) The division also shall file notice of a child support lien, with the social security number, or the alien identification number assigned to a resident alien who does not have a social security number, of the obligor on the notice, with respect to personal property with the Department of Natural Resources, a county, or other office or agency responsible for the filing or recording of liens. The filing of a notice of a lien or of a waiver or release of a lien must be received and registered or recorded without payment of a fee. The division may file notice of a lien or waiver or release of a lien or may transmit information to or receive information from any registry of deeds or other office or agency responsible for the filing or recording of liens by any means, including electronic means. Any lien placed against a vehicle with a title issued by the Department of Motor Vehicles is not perfected until notation of the lien is recorded on the vehicle's title by the Department of Motor Vehicles. No fee is required to reissue this title. The perfected lien is not subordinate to a recorded lien except a lien that has been perfected before the date on which the child support lien was perfected. The division, upon request of the obligor, may subordinate the child support lien to a subsequently perfected mortgage. To assist in the collection of a debt by the division, the division may disclose the name of an obligor against whom a lien has arisen and other identifying information including the existence of the lien and the amount of the outstanding obligation.

(B) The lien expires upon termination of a current child support obligation and payment in full of unpaid child support or upon release of the lien by the division. In any event, a lien under this section expires six years from the date on which the lien was first perfected. The lien may be extended for additional periods of six years each by recording, during the fifth year of the lien, a further notice of the lien, as provided in subsection (A), without affecting the priority of the lien. Expiration of the lien does not terminate the underlying order or judgment of child support. The division may issue a full or partial waiver of a lien imposed under this section. The waiver or release is conclusive evidence that the lien upon the property covered by the waiver or release is extinguished.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2740. Levy upon property; refusal to surrender; discharge of obligation.

(A) If an obligor against whom a lien has arisen and has been perfected under Section 63-17-2730 neglects or refuses to pay the sum due after the expiration of the thirty-day notice period specified in Section 63-17-2720, the division may collect the unpaid child support and levy upon all property as provided in this section. For the purposes of this section, "levy" includes the power of distraint and seizure by any means. A person in possession of property upon which a lien having priority under Section 63-17-2730 has been perfected, upon demand, shall surrender the property to the division as pursuant to this section. Financial institutions which hold assets of an obligor, after proper identification and notification by the division, shall encumber or surrender deposits, credits, or other personal property held by the institution on behalf of an obligor who is subject to a child support lien, pursuant to Section 63-17-2320. Financial institutions are allowed to either submit account information directly to the State where it is matched against the parent data base, or financial institutions may request a file and complete the comparison and submit it directly to the State. The social security number must be used for the matching process and not the full name of the person who maintains an account with that entity. A levy on property held by an organization with respect to a life insurance or endowment contract, without necessity for the surrender of the contract document, constitutes a demand by the division for payment of the amount of the lien and the exercise of the right of the obligor to the advance of the amount. The organization shall pay the amount ninety days after service of the notice of levy. The levy is considered satisfied if the organization pays over to the division the full amount which the obligor could have had advanced to him, if the amount does not exceed the amount of the lien. Whenever any property upon which levy has been made is not sufficient to satisfy the claim of the state for which levy is made, the division thereafter, as often as may be necessary, proceed to levy, without further notice, upon any other property of the obligor subject to levy upon first perfecting its lien as provided in Section 63-17-2730, until the amount due from the obligor and the expenses are fully paid. With respect to a seizure

or levy of real property or tangible personal property, the sheriff shall proceed in the manner prescribed by Sections 15-39-610, et seq., insofar as these sections are not inconsistent with this article. The division has rights to property remaining after satisfying superior perfected liens, as provided in Section 63-17-2730.

(B) Upon demand by the division, a person who fails or refuses to surrender property subject to levy pursuant to this section is liable in his own person and estate to the State in a sum equal to the value of the property not so surrendered but not exceeding the amount of the lien, and the costs at the rate established by Section 23-19-10.

(C) A person in possession of, or obligated with respect to, property who, upon demand by the division, surrenders the property or discharges the obligations to the division or who pays a liability under this article, must be discharged from any obligation or liability to the obligor arising from the surrender or payment. A levy on an organization with respect to a life insurance or endowment contract which is satisfied pursuant to this article, discharges the organization from any obligation or liability to any beneficiary arising from the surrender or payment.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2750. Written notice of perfecting a lien, executing levy, or seizing property.

The division shall send timely written notice to the obligor by first-class mail of any action taken to perfect a lien, execute a levy, or seize any property. The notice shall specify the amount due, the steps to be followed to release the property so placed under lien, levied, or seized, and the time period within which to respond to the notice and shall include the name of the court or administrative agency of competent jurisdiction which entered the child support order.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2760. Judicial review.

A person aggrieved by a determination of the division pursuant to Section 63-17-2720, upon exhaustion of the procedures for administrative review, may seek judicial review in the court where the order or judgment was issued or registered. Commencement of the review shall not stay enforcement of child support. The court may review the proceedings taken by the division pursuant to this section and may correct any mistakes of fact; however, the court may not reduce or retroactively modify child support arrears.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2770. Full faith and credit.

A child support enforcement agency in a jurisdiction outside this State may request the division to enforce a child support order issued by a court or administrative agency in another jurisdiction or a lien arising under the law of another jurisdiction. The order or lien must be accorded full faith and credit and the order or lien must be enforced as if the order was issued or the lien arose in South Carolina, without the necessity of registering the order with the court.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2780. Authorization to promulgate regulations.

The division is authorized to promulgate rules and regulations, if necessary, to implement the provision of this section.

HISTORY: 2008 Act No. 361, Section 2.

ARTICLE 23

Uniform Interstate Family Support Act

Part I

General Provisions

SECTION 63-17-2900. Short title.

This article may be cited as the "Uniform Interstate Family Support Act".

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2910. Definitions.

In this article:

- (1) "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a support order directed to the parent.
- (2) "Child-support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state.
- (3) "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse,

including an unsatisfied obligation to provide support.

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

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

(6) "Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, as provided for in Articles 11, 13, and 15, to withhold support from the income of the obligor.

(7) "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding state under this article or a law or procedure substantially similar to this article.

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

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

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

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

(12) "Obligee" means:

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

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

(c) an individual seeking a judgment determining parentage of the individual's child.

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

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

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

(c) who is liable under a support order.

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

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

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

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

(18) "Responding state" means a state in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating state under this article or a law or procedure substantially similar to this article.

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

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

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

(a) an Indian tribe; and

(b) a foreign country or political subdivision that:

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

(ii) has established a reciprocal arrangement for child support with this State as provided in Section 63-17-3280; or

(iii) has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this article.

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

- (a) enforcement of support orders or laws relating to the duty of support;
- (b) establishment or modification of child support;
- (c) determination of parentage;
- (d) location of obligors or their assets; or
- (e) determination of the controlling child-support order.

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

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2920. Tribunals.

The tribunals of this State are the family court and the support enforcement agency. For the purposes of continuing exclusive jurisdiction under this article, the tribunals of this State have concurrent jurisdiction to establish, modify, and enforce child support in cases being administered pursuant to Title IV-D of the Social Security Act.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-2930. Remedies.

(A) Remedies provided by this article are cumulative and do not affect the availability of remedies under other law, including the recognition of a support order of a foreign country or political subdivision on the basis of comity.

(B) This article does not:

- (1) provide the exclusive method of establishing or enforcing a support order under the law of this State; or
- (2) grant a tribunal of this State jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this article.

HISTORY: 2008 Act No. 361, Section 2.

Part II

Jurisdiction

SECTION 63-17-3010. Personal jurisdiction of nonresident.

(A) In a proceeding to establish or enforce a support order or to determine parentage, a tribunal of this State may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

- (1) the individual is personally served with notice and a summons within this State;
- (2) the individual submits to the jurisdiction of this State by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
- (3) the individual resided with the child in this State;
- (4) the individual resided in this State and provided prenatal expenses or support for the child;
- (5) the child resides in this State as a result of the acts or directives of the individual;
- (6) the individual engaged in sexual intercourse in this State and the child may have been conceived by that act of intercourse;
- (7) the individual asserted parentage in the putative father registry maintained in this State; or
- (8) there is any other basis consistent with the constitutions of this State and the United States for the exercise of personal jurisdiction.

(B) The bases of personal jurisdiction set forth in subsection (A) or in any other law of this State may not be used to acquire personal jurisdiction for a tribunal of the State to modify a child support order of another state unless the requirements of Section 63-17-3830 or 63-17-3870 are met.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3020. Continuing, exclusive jurisdiction.

Personal jurisdiction acquired by a tribunal of this State in a proceeding under this article or other law of this State relating to a support order continues as long as a tribunal of this State has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by Sections 63-17-3050, 63-17-3060, and 63-17-3110.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3030. Initiating or responding tribunals.

Under this article, a tribunal of this State may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3040. Concurrent filings for support.

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

- (1) the petition or comparable pleading in this State is filed before the expiration of the time allowed in the other state for filing a responsive pleading challenging the exercise of jurisdiction by the other state;
- (2) the contesting party timely challenges the exercise of jurisdiction in the other state; and
- (3) if relevant, this State is the home state of the child.

(B) A tribunal of this State may not exercise jurisdiction to establish a support order if the petition or comparable pleading is filed before a petition or comparable pleading is filed in another state if:

- (1) the petition or comparable pleading in the other state is filed before the expiration of the time allowed in this State for filing a responsive pleading challenging the exercise of jurisdiction by this State;
- (2) the contesting party timely challenges the exercise of jurisdiction in this State; and
- (3) if relevant, the other state is the home state of the child.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3050. Continuing, exclusive jurisdiction to modify order.

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

- (1) at the time of the filing of a request for modification this State is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or
- (2) even if this State is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this State may continue to exercise jurisdiction to modify its order.

(B) A tribunal of this State that has issued a child-support order consistent with the law of this State may not exercise continuing, exclusive jurisdiction to modify the order if:

- (1) all of the parties who are individuals file consent in a record with the tribunal of this State that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction; or
- (2) its order is not the controlling order.

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

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

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3060. Tribunal to enforce or modify.

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

- (1) the order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the Uniform Interstate Family Support Act; or
- (2) a money judgment for arrears of support and interest on the order accrued before a determination that an order of another state is the controlling order.

(B) A tribunal of this State having continuing jurisdiction over a support order may act as a responding tribunal to enforce the order.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3070. Multiple tribunals.

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

(B) If a proceeding is brought under this article, and two or more child-support orders have been issued by tribunals of this State or another state with regard to the same obligor and same child, a tribunal of this State having personal jurisdiction over both the obligor and individual obligee shall apply the following rules and by order shall determine which order controls:

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

(2) If more than one of the tribunals would have continuing, exclusive jurisdiction under this article:

- (a) an order issued by a tribunal in the current home state of the child controls; but
- (b) if an order has not been issued in the current home state of the child, the order most recently issued controls.

(3) If none of the tribunals would have continuing, exclusive jurisdiction under this article, the tribunal of this State shall issue a child-support order, which controls.

(C) If two or more child-support orders have been issued for the same obligor and same child, upon request of a party who is an individual or a support enforcement agency, a tribunal of this State having personal jurisdiction over both the obligor and the obligee who is an individual shall determine which order controls under subsection (B). The request may be filed with a registration for enforcement or registration for modification pursuant to Part VI, or may be filed as a separate proceeding.

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

(E) The tribunal that issued the controlling order under subsection (A), (B), or (C) has continuing jurisdiction to the extent provided in Section 63-17-3050 or 63-17-3060.

(F) A tribunal of this State that determines by order which is the controlling order under subsection (B)(1) or (2) or (C), or that issues a new controlling order under subsection (B)(3), shall state in that order:

- (1) the basis upon which the tribunal made its determination;
- (2) the amount of prospective support, if any; and
- (3) the total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided by Section 63-17-3090.

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

(H) An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under this article.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3080. Multiple registrations of orders.

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3090. Credit for out-of-state collections.

A tribunal of this State shall credit amounts collected for a particular period pursuant to any child-support order against the amounts owed for the same period under any other child-support order for support of the same child issued by a tribunal of this or another state.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3100. Evidence from another state.

A tribunal of this State exercising personal jurisdiction over a nonresident in a proceeding under this article, under other law of this State relating to a support order, or recognizing a support order of a foreign country or political subdivision on the basis of comity may receive evidence from another state pursuant to Section 63-17-3360, communicate with a tribunal of another state pursuant to Section 63-17-3370, and obtain discovery through a tribunal of another state pursuant to Section 63-17-3380. In all other respects, Parts III through VII do not apply and the tribunal shall apply the procedural and substantive law of this State.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3110. Continuing jurisdiction for spousal support.

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

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

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

- (1) an initiating tribunal to request a tribunal of another state to enforce the spousal-support order issued in this State; or
- (2) a responding tribunal to enforce or modify its own spousal-support order.

HISTORY: 2008 Act No. 361, Section 2.

Part III

Civil Provisions of General Application

SECTION 63-17-3210. Applicability of law.

(A) Except as otherwise provided in this article, this part applies to all proceedings under this article.

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3220. Initiating proceeding.

A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3230. Governing law determination.

Except as otherwise provided in this article, a responding tribunal of this State shall:

- (1) apply the procedural and substantive law generally applicable to similar proceedings originating in this State and may exercise all powers and provide all remedies available in those proceedings; and
- (2) determine the duty of support and the amount payable in accordance with the law and support guidelines of this State.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3240. Forwarding of petition.

(A) Upon the filing of a petition authorized by this article, an initiating tribunal of this State shall forward the petition and its accompanying documents:

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

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

(B) If requested by the responding tribunal, a tribunal of this State shall issue a certificate or other document and make findings required by the law of the responding state. If the responding state is a foreign country or political subdivision, upon request the tribunal shall specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding state.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3250. Responding tribunal powers and duties.

(A) When a responding tribunal of this State receives a petition or comparable pleading from an initiating tribunal or directly pursuant to Section 63-17-3210(B), it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

(B) A responding tribunal of this State, to the extent not prohibited by other law, may do one or more of the following:

(1) issue or enforce a support order, modify a child-support order, determine the controlling child-support order, or to determine parentage;

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

(3) order income withholding;

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

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

(6) set aside property for satisfaction of the support order;

(7) place liens and order execution on the obligor's property;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;

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

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

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

(12) grant any other available remedy.

(C) A responding tribunal of this State shall include in a support order issued under this article, or in the documents accompanying the order, the calculations on which the support order is based.

(D) A responding tribunal of this State may not condition the payment of a support order issued under this article upon compliance by a party with provisions for visitation.

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

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3260. Inappropriate tribunal to forward petition.

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3270. Duties of support enforcement agency.

(A) A support enforcement agency of this State, upon request, shall provide services to a petitioner in a proceeding under this

article.

(B) A support enforcement agency of this State that is providing services to the petitioner shall:

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

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

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

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

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

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

(C) A support enforcement agency of this State that requests registration of a child-support order in this State for enforcement or for modification shall make reasonable efforts:

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

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

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

(E) A support enforcement agency of this State shall issue or request a tribunal of this State to issue a child-support order and an income-withholding order that redirect payment of current support, arrears, and interest if requested to do so by a support enforcement agency of another state pursuant to Section 63-17-3390 of the Uniform Interstate Family Support Act.

(F) This article does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3280. Duty to provide services.

(A) If the Attorney General determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the Attorney General may order the agency to perform its duties under this article or may provide those services directly to the individual.

(B) The Department of Social Services may determine that a foreign country or political subdivision has established a reciprocal arrangement for child support with this State and take appropriate action for notification of the determination.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3290. Private counsel.

An individual may employ private counsel to represent the individual in proceedings authorized by this article.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3300. Department of Social Services as state information agency.

(A) The Department of Social Services is the state information agency under this article.

(B) The state information agency shall:

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

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

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

(4) obtain information concerning the location of the obligor and the obligor's property within this State not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the

obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3310. Petition contents.

(A) In a proceeding under this article, a petitioner seeking to establish a support order, to determine parentage, or to register and modify a support order of another state must file a petition. Unless otherwise ordered under Section 63-17-3320, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee or the parent and alleged parent, and the name, sex, residential address, social security number, and date of birth of each child for whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition must be accompanied by a copy of any support order known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3320. Sealing petition.

If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information must be sealed and may not be disclosed to the other party or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or child, the tribunal may order disclosure of information that the tribunal determines to be in the interest of justice.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3330. Fees and costs.

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

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

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3340. Immunity of petitioner.

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

(B) A petitioner is not amenable to service of civil process while physically present in this State to participate in a proceeding under this article.

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3350. Nonparentage defense.

A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this article.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3360. Nonresident party proceedings.

(A) The physical presence of a nonresident party who is an individual in a tribunal of this State is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage.

(B) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under

penalty of perjury by a party or witness residing in another state.

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

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

(E) Documentary evidence transmitted from another state to a tribunal of this State by telephone, telecopier, or other means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

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

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

(H) A privilege against disclosure of communications between spouses does not apply in a proceeding under this article.

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

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3370. Communication with other tribunals.

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3380. Discovery powers of tribunal.

A tribunal of this State may:

- (1) request a tribunal of another state to assist in obtaining discovery; and
- (2) upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3390. Disbursement of payments.

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

(B) If neither the obligor, nor the obligee who is an individual, nor the child resides in this State, upon request from the support enforcement agency of this State or another state, the Department of Social Services or a tribunal of this State shall:

- (1) direct that the support payment be made to the support enforcement agency in the state in which the obligee is receiving services; and
- (2) issue and send to the obligor's employer a conforming income-withholding order or an administrative notice of change of payee, reflecting the redirected payments.

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

HISTORY: 2008 Act No. 361, Section 2.

Part IV

Establishment of Support Order

SECTION 63-17-3410. Issuance of order.

(A) If a support order entitled to recognition under this article has not been issued, a responding tribunal of this State may issue a support order if:

- (1) the individual seeking the order resides in another state; or
- (2) the support enforcement agency seeking the order is located in another state.

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

- (1) a presumed father of the child;
 - (2) petitioning to have his paternity adjudicated;
 - (3) identified as the father of the child through genetic testing;
 - (4) an alleged father who has declined to submit to genetic testing;
 - (5) shown by clear and convincing evidence to be the father of the child;
 - (6) an acknowledged father as provided by law;
 - (7) the mother of the child; or
 - (8) an individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.
- (C) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to Section 63-17-3250.

HISTORY: 2008 Act No. 361, Section 2.

Part V

Enforcement of Order of Another State Without Registration

SECTION 63-17-3510. Mailing order to employer.

An income-withholding order issued in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person defined as the obligor's employer under Articles 11, 13, and 15 without first filing a petition or comparable pleading or registering the order with a tribunal of this State.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3520. Employer duties.

- (A) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.
- (B) The employer shall treat an income-withholding order issued in another state which appears regular on its face as if it had been issued by a tribunal of this State.
- (C) Except as otherwise provided in subsection (D) and Section 63-17-3530, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:
- (1) the duration and amount of periodic payments of current child-support, stated as a sum certain;
 - (2) the person designated to receive payments and the address to which the payments are to be forwarded;
 - (3) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;
 - (4) the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and
 - (5) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.
- (D) An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:
- (1) the employer's fee for processing an income-withholding order;

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

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3530. Multiple income-withholding orders.

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3540. Immunity.

An employer who complies with an income-withholding order issued in another state in accordance with this part is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3550. Failure to comply.

An employer who wilfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this State.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3560. Contesting withholding order.

(A) An obligor may contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this State by registering the order in a tribunal of this State and filing a contest to that order as provided in Part VI, or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this State.

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

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

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

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3570. Enforcement of orders.

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

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

HISTORY: 2008 Act No. 361, Section 2.

Part VI

Registration, Enforcement, and Modification of Support Order

Subpart 1

Registration and Enforcement of Support Order

SECTION 63-17-3610. Registration of out-of-state order.

A support order or income-withholding order issued by a tribunal of another state may be registered in this State for enforcement.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3620. Registration procedures.

(A) A support order or income-withholding order of another state may be registered in this State by sending the following records

and information to the Department of Social Services:

- (1) a letter of transmittal to the tribunal requesting registration and enforcement;
 - (2) two copies, including one certified copy, of the order to be registered, including any modification of the order;
 - (3) a sworn statement by the person requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;
 - (4) the name of the obligor and, if known:
 - (a) the obligor's address and social security number;
 - (b) the name and address of the obligor's employer and any other source of income of the obligor; and
 - (c) a description and the location of property of the obligor in this State not exempt from execution; and
 - (5) except as otherwise provided in Section 63-17-3320, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.
- (B) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.
- (C) A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this State may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.
- (D) If two or more orders are in effect, the person requesting registration shall:
- (1) furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;
 - (2) specify the order alleged to be the controlling order, if any; and
 - (3) specify the amount of consolidated arrears, if any.
- (E) A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the request to each party whose rights may be affected by the determination.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3630. Filing order.

- (A) A support order or income-withholding order issued in another state is registered when the order is filed in the registering tribunal of this State.
- (B) A registered order issued in another state is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this State.
- (C) Except as otherwise provided in this part, a tribunal of this State shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3640. Applicable law.

- (A) Except as otherwise provided in subsection (D), the law of the issuing state governs:
- (1) the nature, extent, amount, and duration of current payments under a registered support order;
 - (2) the computation and payment of arrearages and accrual of interest on the arrearages under the support order; and
 - (3) the existence and satisfaction of other obligations under the support order.
- (B) In a proceeding for arrears under a registered support order, the statute of limitation of this State or of the issuing state, whichever is longer, applies.
- (C) A responding tribunal of this State shall apply the procedures and remedies of this State to enforce current support and collect arrears and interest due on a support order of another state registered in this State.
- (D) After a tribunal of this or another state determines which is the controlling order and issues an order consolidating arrears, if any, a tribunal of this State shall prospectively apply the law of the state issuing the controlling order, including its law on interest on arrears, on current and future support, and on consolidated arrears.

HISTORY: 2008 Act No. 361, Section 2.

Subpart 2

Contest of Validity or Enforcement

SECTION 63-17-3710. Notification of registration.

(A) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. Notice must be given by first-class, certified, or registered mail or by any means of personal service authorized by the law of this State. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(B) A notice must inform the nonregistering party:

- (1) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this State;
- (2) that a hearing to contest the validity or enforcement of the registered order must be requested within twenty days after notice;
- (3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages; and
- (4) of the amount of any alleged arrearages.

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

- (1) identify the two or more orders and the order alleged by the registering person to be the controlling order and the consolidated arrears, if any;
- (2) notify the nonregistering party of the right to a determination of which is the controlling order;
- (3) state that the procedures provided in subsection (B) apply to the determination of which is the controlling order; and
- (4) state that failure to contest the validity or enforcement of the order alleged to be the controlling order in a timely manner may result in confirmation that the order is the controlling order.

(D) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to Articles 11, 13, and 15.

HISTORY: 2008 Act No. 361, Section 2; 2008 Act No. 332, Section 2.

SECTION 63-17-3720. Contesting validity of order.

(A) A nonregistering party seeking to contest the validity or enforcement of a registered order in this State shall request a hearing within twenty days after notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages pursuant to Section 63-17-3730.

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

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3730. Defenses; burden of proof.

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

- (1) the issuing tribunal lacked personal jurisdiction over the contesting party;
- (2) the order was obtained by fraud;
- (3) the order has been vacated, suspended, or modified by a later order;
- (4) the issuing tribunal has stayed the order pending appeal;
- (5) there is a defense under the law of this State to the remedy sought;
- (6) full or partial payment has been made;

(7) the statute of limitation under Section 63-17-3640 precludes enforcement of some or all of the alleged arrearages; or

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

(B) If a party presents evidence establishing a full or partial defense under subsection (A), a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this State.

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3740. Confirmation.

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

HISTORY: 2008 Act No. 361, Section 2.

Subpart 3

Registration and Modification of Child-Support Order

SECTION 63-17-3810. Registration to modify.

A party or support enforcement agency seeking to modify, or to modify and enforce, a child-support order issued in another state shall register that order in this State in the same manner provided in Subpart 1 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3820. Prerequisites to modification.

A tribunal of this State may enforce a child-support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this State, but the registered order may be modified only if the requirements of Section 63-17-3830, 63-17-3850, or 63-17-3870 have been met.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3830. Conditions for modification.

(A) If Section 63-17-3850 does not apply, except as otherwise provided in Section 63-17-3870, upon petition, a tribunal of this State may modify a child-support order issued in another state which is registered in this State if, after notice and hearing, the tribunal finds that:

(1) the following requirements are met:

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

(b) a petitioner who is a nonresident of this State seeks modification; and

(c) the respondent is subject to the personal jurisdiction of the tribunal of this State; or

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

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

(C) Except as otherwise provided in Section 63-17-3870, a tribunal of this State may not modify any aspect of a child-support order that may not be modified under the law of the issuing state, including the duration of the obligation of support. If two or more tribunals have issued child-support orders for the same obligor and same child, the order that controls and must be so recognized under Section 63-17-3070 establishes the aspects of the support order which are nonmodifiable.

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

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3840. Enforcement of modified order.

If a child-support order issued by a tribunal of this State is modified by a tribunal of another state which assumed jurisdiction pursuant to the Uniform Interstate Family Support Act, a tribunal of this State:

- (1) may enforce its order that was modified only as to arrears and interest accruing before the modification;
- (2) may provide appropriate relief for violations of its order which occurred before the effective date of the modification; and
- (3) shall recognize the modifying order of the other state, upon registration, for the purpose of enforcement.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3850. Enforcement of modification with in-state parties.

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

(B) A tribunal of this State exercising jurisdiction under this section shall apply the provisions of Parts I and II, this part, and the procedural and substantive law of this State to the proceeding for enforcement or modification. Parts III, IV, V, VII, and VIII do not apply.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3860. Filing order.

Within thirty days after issuance of a modified child-support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-3870. Modification with no consent filed.

(A) If a foreign country or political subdivision that is a state will not or may not modify its order pursuant to its laws, a tribunal of this State may assume jurisdiction to modify the child-support order and bind all individuals subject to the personal jurisdiction of the tribunal whether or not the consent to modification of a child-support order otherwise required of the individual pursuant to Section 63-17-3830 has been given or whether the individual seeking modification is a resident of this State or of the foreign country or political subdivision.

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

HISTORY: 2008 Act No. 361, Section 2.

Part VII

Determination of Parentage

SECTION 63-17-3910. State court as responding tribunal.

A court of this State authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage brought under this article or a law or procedure substantially similar to this article.

HISTORY: 2008 Act No. 361, Section 2.

Part VIII

Interstate Rendition

SECTION 63-17-4010. Extradition.

(A) For purposes of this article, "governor" includes an individual performing the functions of governor or the executive authority of a state covered by this article.

(B) The Governor of this State may:

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

other state with having failed to provide for the support of an obligee.

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

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-4020. Prerequisites to compliance with extradition.

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

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

(C) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the Governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the Governor may decline to honor the demand if the individual is complying with the support order.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-4030. Construction of law.

In applying and construing this article, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

HISTORY: 2008 Act No. 361, Section 2.

SECTION 63-17-4040. Severability.

If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this article is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this article, the General Assembly hereby declaring that it would have passed this article, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

HISTORY: 2008 Act No. 361, Section 2.