

No. 1996-20

AN ACT

SB 432

Amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for grounds for involuntary termination of parental rights; providing for mediation in divorce and custody matters and for disclosure of child support arrearage information; adding the definition of "consumer reporting agency"; further providing for support jurisdiction, for support expedition and for reciprocal enforcement of support; and providing for interstate and intrastate enforcement of family support.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2511(a)(7) of Title 23 of the Pennsylvania Consolidated Statutes is amended to read:

§ 2511. Grounds for involuntary termination.

(a) General rule.—The rights of a parent in regard to a child may be terminated after a petition filed on any of the following grounds:

* * *

(7) The parent is the father of a child [**who was**] conceived as a result of a rape *or incest*.

* * *

Section 2. Part IV of Title 23 is amended by adding a chapter to read:

CHAPTER 39
MEDIATION

Sec.

3901. Mediation programs.

3902. Fees and costs.

3903. Review of programs.

3904. Existing programs.

§ 3901. Mediation programs.

(a) Establishment.—A court may establish a mediation program for actions brought under this part or Chapter 53 (relating to custody).

(b) Issues subject to mediation.—When a program has been established pursuant to subsection (a), the court may order the parties to attend an orientation session to explain the mediation process. Thereafter, should the parties consent to mediation, the court may order them to mediate such issues as it may specify.

(c) Local rules.—

(1) The court shall adopt local rules for the administration of the mediation program to include rules regarding qualifications of mediators, confidentiality and any other matter deemed appropriate by the court.

(2) The court shall not order an orientation session or mediation in a case where either party or child of either party is or has been a subject of domestic violence or child abuse at any time during the pendency of an action under this part or within 24 months preceding the filing of any action under this part.

(d) Model guidelines.—The Supreme Court shall develop model guidelines for implementation of this section and shall consult with experts on mediation and domestic violence in this Commonwealth in the development thereof. The effective date of this chapter shall not be delayed by virtue of this subsection.

§ 3902. Fees and costs.

(a) Imposition of fee.—A county in which the court has established a mediation program may impose an additional filing fee of up to \$20 on divorce and custody complaints to be used to fund the mediation program.

(b) Assessment of additional costs.—The court may assess additional costs of mediation on either party.

§ 3903. Review of programs.

The Supreme Court shall monitor mediation programs established by courts of common pleas. The Supreme Court shall establish procedures for the evaluation of the effectiveness of the program.

§ 3904. Existing programs.

This chapter shall not affect any existing mediation program established in any judicial district pursuant to local rule.

Section 3. Section 4302 of Title 23 is amended by adding a definition to read:

§ 4302. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Consumer reporting agency.” As defined in section 630(f) of the Federal Fair Credit Reporting Act (Public Law 91-508, 15 U.S.C. § 1681a(f)).

* * *

Section 4. Sections 4303, 4342(c) and (d) and 4352(a) and (f) of Title 23 are amended to read:

§ 4303. Information to consumer [credit bureau] reporting agency.

[(a) General rule.—]Information regarding *the name and* the amount of arrearages owed by an obligor shall be [made available] *provided to* [any] consumer [credit bureau organization upon the request of the organization] *reporting agencies whenever the obligor owes overdue support and is at least two months in arrears,* subject to the following:

[(1) Where the amount of arrearages is less than \$1,000, information regarding the amount shall be made available at the option of the domestic relations section of the county in which the order of support was entered.

(2)] (1) The information shall be available only after the obligor owing the arrearages has been notified of the proposed action and given a period not to exceed 20 days to contest the accuracy of the information. The notice shall be as provided by local rule of the court of common pleas.

(2) Such information shall not be made available to:

(i) a consumer reporting agency which the Department of Public Welfare determines not to have sufficient capability to systematically and timely make accurate use of such information; or

(ii) an entity which has not furnished evidence satisfactory to the Department of Public Welfare that the entity is a consumer reporting agency.

[(b) Fee.—A fee for furnishing the information in an amount not exceeding the actual cost thereof may be imposed on the requesting organization by the domestic relations office.]

§ 4342. Expedited procedure.

*** * ***

(c) Long arm procedures.—The Supreme Court shall by general rule establish procedures for the exercise of long arm jurisdiction to establish paternity and to establish and enforce support. Long arm jurisdiction shall be used in preference to proceedings under [Chapter 45 (relating to reciprocal enforcement of support orders)] *Part VIII (relating to uniform interstate family support) or VIII-A (relating to intrastate family support)* unless it would be more effective to proceed otherwise. Long arm proceedings may be commenced or continued in any county where the plaintiff resides regardless of whether the parties maintained a family domicile in that county.

[(d) Jurisdiction over nonresident.—In a proceeding to establish, enforce or modify a support order or to determine parentage, any court of this Commonwealth may exercise personal jurisdiction over a nonresident individual if:

(1) the individual is personally served with notice within this Commonwealth;

(2) the individual submits to the jurisdiction of this Commonwealth 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 Commonwealth;

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

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

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

(7) the individual asserted parentage in the affidavit filed under the act of June 29, 1953 (P.L.304, No.66), known as the Vital Statistics Law of 1953; or

(8) there is any other basis consistent with the Constitution of the United States and the Constitution of Pennsylvania for the exercise of personal jurisdiction.]

* * *

§ 4352. Continuing jurisdiction over support orders.

(a) General rule.—The court making an order of support shall at all times maintain jurisdiction of the matter for the purpose of enforcement of the order and for the purpose of increasing, decreasing, modifying or rescinding the order [without limiting the right of the obligee to institute additional proceedings for support in any county in which the obligor resides or in which property of the obligor is situated] *unless otherwise provided by Part VIII (relating to uniform interstate family support) or VIII-A (relating to intrastate family support)*. A method shall be developed for the automatic review of each order of support at least once every three years from the date of establishment or the most recent review, for the purpose of making any appropriate increase, decrease, modification or rescission of the order. If, however, it is determined that such a review would not be in the best interests of the child and neither parent has requested a review in the interim, no review shall be required.

* * *

[(f) Foreign support orders.—Subject to the limitations in subsection (d), the court may modify or remit any support obligation under registered foreign support orders when the foreign court declines, surrenders or determines that it is an inappropriate forum to modify the decree.]

* * *

Section 5. Chapter 45 of Title 23 is repealed.

Section 6. Title 23 is amended by adding parts to read:

PART VIII UNIFORM INTERSTATE FAMILY SUPPORT

Chapter

71. General Provisions
72. Jurisdiction
73. Civil Provisions of General Application
74. Establishment of Support Order
75. Direct Enforcement of Order of Another State Without Registration
76. Enforcement and Modification of Support Order After Registration

- 77. Determination of Parentage
- 78. Interstate Rendition
- 79. Miscellaneous Provisions

CHAPTER 71 GENERAL PROVISIONS

Sec.

7101. Short title of part and definitions.

7102. Remedies cumulative.

§ 7101. Short title of part and definitions.

(a) Short title of part.—This part shall be known and may be cited as the Uniform Interstate Family Support Act.

(b) Definitions.—Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Child.” 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.

“Child support order.” A support order for a child, including a child who has attained the age of majority under the law of the issuing state.

“Department.” The Department of Public Welfare of the Commonwealth.

“Duty of support.” An obligation imposed or imposable by law to provide support for a child, spouse or former spouse. The term includes an unsatisfied obligation to provide support.

“Home state.” 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.

“Income.” The term 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.

“Income-withholding order.” An order or other legal process directed to an obligor’s employer, in accordance with section 4348 (relating to attachment of income) to withhold support from the income of the obligor.

“Initiating state.” A state in which a proceeding under this part or a law substantially similar to this part, the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act is filed for forwarding to a responding state.

“Initiating tribunal.” The authorized tribunal in an initiating state.

“Issuing state.” The state in which a tribunal issues a support order or renders a judgment determining parentage.

“Issuing tribunal.” The tribunal that issues a support order or renders a judgment determining parentage.

“Law.” The term includes decisional and statutory law and rules and regulations having the force of law.

“Obligee.” Any of the following:

(1) 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.

(2) 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.

(3) An individual seeking a judgment determining parentage of the individual’s child.

(4) The Department of Public Welfare.

“Obligor.” An individual, or the estate of a decedent:

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

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

(3) that is liable under a support order.

“Register.” To record a support order or judgment determining parentage in the office designated by a court of common pleas.

“Registering tribunal.” A tribunal in which a support order is registered.

“Responding state.” A state to which a proceeding is forwarded under this part or a law substantially similar to this part, the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act.

“Responding tribunal.” The authorized tribunal in a responding state.

“Secretary.” The Secretary of Public Welfare of the Commonwealth.

“Spousal support order.” A support order for a spouse or former spouse of the obligor.

“State.” A state of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe and a foreign jurisdiction that has established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this part.

“Support enforcement agency.” A public official or agency authorized to seek:

(1) enforcement of support orders or laws relating to the duty of support;

(2) establishment or modification of child support;

(3) determination of parentage; or

(4) location of obligors or their assets.

“Support order.” A judgment, decree or order, whether temporary, final or subject to modification, for the benefit of a child, a spouse or a former spouse, which provides for monetary support, health care, arrearages or reimbursement. The term includes related costs and fees, interest, income withholding, attorney fees and other relief.

“Tribunal.” A court, administrative agency or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine parentage.

“Tribunal of this State.” A court of common pleas.

§ 7102. Remedies cumulative.

Remedies provided by this part are cumulative and do not affect the availability of remedies under other law.

CHAPTER 72 JURISDICTION

Subchapter

- A. Extended Personal Jurisdiction
- B. Proceedings Involving Two or More States
- C. Reconciliation with Orders of Other States

SUBCHAPTER A EXTENDED PERSONAL JURISDICTION

Sec.

7201. Bases for jurisdiction over nonresident.

7202. Procedure when exercising jurisdiction over nonresident.

§ 7201. Bases for jurisdiction over nonresident.

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

- (1) The individual is personally served with a writ of summons, complaint or other appropriate pleading 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 acknowledged parentage of the child on a form filed with the department under section 5103 (relating to acknowledgment and claim of paternity).

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

§ 7202. Procedure when exercising jurisdiction over nonresident.

A tribunal of this State exercising personal jurisdiction over a nonresident under section 7201 (relating to bases for jurisdiction over nonresident) may apply section 7316 (relating to special rules of evidence and procedure) to receive evidence from another state and section 7318 (relating to assistance with discovery) to obtain discovery through a tribunal of another state. In all other respects, Chapters 73 (relating to civil provisions of general application) through 77 (relating to determination of parentage) do not apply, and the tribunal shall apply the procedural and substantive law of this State, including the rules on choice of law other than those established by this part.

SUBCHAPTER B
PROCEEDINGS INVOLVING TWO OR MORE STATES

Sec.

7203. Initiating and responding tribunal of this State.

7204. Simultaneous proceedings in another state.

7205. Continuing, exclusive jurisdiction.

7206. Enforcement and modification of support order by tribunal having continuing jurisdiction.

§ 7203. Initiating and responding tribunal of this State.

Under this part, 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.

§ 7204. Simultaneous proceedings in another state.

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

(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.

(3) If relevant, this State is the home state of the child.

(b) Impermissible.—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 all of the following apply:

(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.

(3) If relevant, the other state is the home state of the child.

§ 7205. Continuing, exclusive jurisdiction.

(a) Extent.—A tribunal of this State issuing a support order consistent with the law of this State has continuing, exclusive jurisdiction over a child support order:

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

(2) until each individual party has filed written consent with the tribunal of this State for a tribunal of another state to modify the order and assume continuing, exclusive jurisdiction.

(b) Restriction.—A tribunal of this State issuing a child support order consistent with the law of this State may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to a law substantially similar to this part.

(c) Modification.—If a child support order of this State is modified by a tribunal of another state pursuant to a law substantially similar to this part, a tribunal of this State loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this State and may only do the following:

(1) Enforce the order that was modified as to amounts accruing before the modification.

(2) Enforce nonmodifiable aspects of that order.

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

(d) Faith and credit.—A tribunal of this State shall recognize the continuing, exclusive jurisdiction of a tribunal of another state which has issued a child support order pursuant to a law substantially similar to this part.

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

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

§ 7206. Enforcement and modification of support order by tribunal having continuing jurisdiction.

(a) Initiating tribunal.—A tribunal of this State may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(b) Responding tribunal.—A tribunal of this State having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings, the tribunal may apply section 7316 (relating to special rules of evidence and procedure) to receive evidence from another state and section 7318 (relating to assistance with discovery) to obtain discovery through a tribunal of another state.

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

SUBCHAPTER C RECONCILIATION WITH ORDERS OF OTHER STATES

Sec.

7207. Recognition of child support orders.

7208. Multiple child support orders for two or more obligees.

7209. Credit for payments.

§ 7207. Recognition of child support orders.

(a) Principles.—If a proceeding is brought under this part and one or more child support orders have been issued in this State or another state with regard to an obligor and a child, a tribunal of this State shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If only one tribunal has issued a child support order, the order of that tribunal must be recognized.

(2) If two or more tribunals have issued child support orders for the same obligor and child and only one of the tribunals would have continuing, exclusive jurisdiction under this part, the order of that tribunal must be recognized.

(3) If two or more tribunals have issued child support orders for the same obligor and child and more than one of the tribunals would have continuing, exclusive jurisdiction under this part, an order issued by a tribunal in the current home state of the child must be recognized, but, if an order has not been issued in the current home state of the child, the order most recently issued must be recognized.

(4) If two or more tribunals have issued child support orders for the same obligor and child and none of the tribunals would have continuing, exclusive jurisdiction under this part, the tribunal of this State may issue a child support order which must be recognized.

(b) Result.—The tribunal that has issued an order recognized under subsection (a) is the tribunal having continuing, exclusive jurisdiction.

§ 7208. Multiple child support orders for two or more obligees.

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

§ 7209. Credit for payments.

Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this State.

CHAPTER 73 CIVIL PROVISIONS OF GENERAL APPLICATION

Sec.

7301. Proceedings under this part.

7302. Action by minor parent.

7303. Application of law of this State.

7304. Duties of initiating tribunal.

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7313. Costs and fees.

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7315. Nonparentage as defense.

7316. Special rules of evidence and procedure.

7317. Communications between tribunals.

7318. Assistance with discovery.

7319. Receipt and disbursement of payments.

§ 7301. Proceedings under this part.

(a) Scope.—Except as otherwise provided in this part, this chapter applies to all proceedings under this part.

(b) Proceedings.—This part provides for the following proceedings:

(1) Establishment of an order for spousal support or child support pursuant to Chapter 74 (relating to establishment of support order).

(2) Enforcement of a support order and income-withholding order of another state without registration pursuant to Chapter 75 (relating to direct enforcement of order of another state without registration).

(3) Registration of an order for spousal support or child support of another state for enforcement pursuant to Chapter 76 (relating to enforcement and modification of support order after registration).

(4) Modification of an order for child support or spousal support issued by a tribunal of this State pursuant to Subchapter B of Chapter 72 (relating to proceedings involving two or more states).

(5) Registration of an order for child support of another state for modification pursuant to Chapter 76.

(6) Determination of parentage pursuant to Chapter 77 (relating to determination of parentage).

(7) Assertion of jurisdiction over nonresidents pursuant to Subchapter A of Chapter 72 (relating to extended personal jurisdiction).

(c) Commencement.—An individual petitioner or a support enforcement agency may commence a proceeding authorized under this part 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.

§ 7302. Action by minor parent.

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.

§ 7303. Application of law of this State.

Except as otherwise provided by this part, a responding tribunal of this State:

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

(2) shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this State.

§ 7304. Duties of initiating tribunal.

Upon the filing of a petition authorized by this part, an initiating tribunal of this State shall forward three copies of the petition and its accompanying documents:

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

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

§ 7305. Duties and powers of responding tribunal.

(a) Filing and notice.—If a responding tribunal of this State receives a petition or comparable pleading from an initiating tribunal or directly

pursuant to section 7301(c) (relating to proceedings under this part), it shall cause the petition or pleading to be filed and notify the petitioner by first class mail where and when it was filed.

(b) Action.—A responding tribunal of this State, to the extent otherwise authorized by law, may do any of the following:

(1) Issue or enforce a support order, modify a child support order or render a judgment to determine parentage.

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

(3) Order income withholding.

(4) Determine the amount of any arrearages and specify a method of payment.

(5) Enforce orders by civil or criminal contempt, or both.

(6) Set aside property for satisfaction of the support order.

(7) Place liens and order execution on the obligor's property.

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

(9) Issue a 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 state and local computer systems for criminal warrants.

(10) Order the obligor to seek appropriate employment by specified methods.

(11) Award reasonable attorney fees and other fees and costs.

(12) Grant any other available remedy.

(c) Calculations.—A responding tribunal of this State shall include in a support order issued under this part or in the documents accompanying the order the calculations on which the support order is based.

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

(e) Notice.—If a responding tribunal of this State issues an order under this part, the tribunal shall send a copy of the order by first class mail to the petitioner and the respondent and to the initiating tribunal, if any.

§ 7306. Inappropriate tribunal.

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

§ 7307. Duties of support enforcement agency.

(a) General duty.—A support enforcement agency of this State upon request shall provide services to a petitioner in a proceeding under this part.

(b) Specific duties.—A support enforcement agency that is providing services to the petitioner as appropriate shall do all of the following:

(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 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 from an initiating, responding or registering tribunal, send a copy of the notice by first class mail to the petitioner.

(5) Within two days, exclusive of Saturdays, Sundays and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication by first class mail to the petitioner.

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

(c) **Fiduciaries.**—This part 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.

§ 7308. Supervisory duty.

(a) **Secretary.**—If the secretary determines that a support enforcement agency other than the department is neglecting or refusing to provide services to an individual, the secretary may order the agency to perform its duties under this part or may provide those services directly to the individual.

(b) **Attorney General.**—If the Attorney General determines that the department is neglecting or refusing to provide services to an individual, the Attorney General may order the department to perform its duties under this part or may provide those services directly to the individual.

§ 7309. Private counsel.

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

§ 7310. Duties of department.

(a) **Designation.**—The department is the State information agency under this part.

(b) **Duties.**—The department shall do all of the following:

(1) Compile and maintain a current list, including addresses, of the tribunals in this State which have jurisdiction under this part 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 tribunals and support enforcement agencies received from other states.

(3) Forward to the appropriate tribunal in the place in this State in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, documents concerning a

proceeding under this part received from an initiating tribunal or the state information agency of the initiating state.

(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; 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.

§ 7311. Pleadings and accompanying documents.

(a) Verification and content.—A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under this part must verify the petition. Unless otherwise ordered under section 7312 (relating to nondisclosure of information in exceptional circumstances), the petition or accompanying documents must provide, so far as known, the name, residential address and Social Security number of the obligor and the obligee and the name, sex, residential address, Social Security number and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(b) Relief.—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.

§ 7312. Nondisclosure of information in exceptional circumstances.

Upon a finding, which may be made ex parte, that the health, safety or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this part.

§ 7313. Costs and fees.

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

(b) Obligor.—If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney 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 state or the responding state except as provided by other law. Attorney 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) Dilatory actions.—The tribunal shall order the payment of costs and reasonable attorney fees if it determines that a hearing was requested primarily for delay. In a proceeding under Chapter 76 (relating to enforcement and modification of support order after registration), a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

§ 7314. Limited immunity of petitioner.

(a) Jurisdiction over person.—Participation by a petitioner in a proceeding 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) Service.—A petitioner is not amenable to service of civil process while physically present in this State to participate in a proceeding under this part.

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

§ 7315. Nonparentage as 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 part.

§ 7316. Special rules of evidence and procedure.

(a) Physical presence.—The physical presence of the petitioner in a responding tribunal of this State is not required for the establishment, enforcement or modification of a support order or the rendition of a judgment determining parentage.

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

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

(f) Testimony.—In a proceeding under this part, a tribunal of this State may permit a party or witness residing in another state to be deposed or to testify 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 a tribunal of another state in designating an appropriate location for the deposition or testimony.

(g) Self-incrimination.—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) Spousal communications.—A privilege against disclosure of communications between spouses does not apply in a proceeding under this part.

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

§ 7317. Communications between tribunals.

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

§ 7318. Assistance with discovery.

A tribunal of this State may do all of the following:

(1) Request a tribunal of another state to assist in obtaining discovery.

(2) Upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another state.

§ 7319. Receipt and disbursement of payments.

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.

CHAPTER 74

ESTABLISHMENT OF SUPPORT ORDER

Sec.

7401. Petition to establish support order.

§ 7401. Petition to establish support order.

(a) Jurisdiction.—If a support order entitled to recognition under this part has not been issued, a responding tribunal of this State may issue a support order if any of the following apply:

(1) The individual seeking the order resides in another state.

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

(b) Temporary orders.—The tribunal may issue a temporary child support order if any of the following apply:

(1) The respondent has signed a verified statement acknowledging parentage.

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

(3) There is other clear and convincing evidence that the respondent is the child's parent.

(c) Relief.—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 7305 (relating to duties and powers of responding tribunal).

CHAPTER 75
DIRECT ENFORCEMENT OF ORDER OF
ANOTHER STATE WITHOUT REGISTRATION

Sec.

7501. Recognition of income-withholding order of another state.

7502. Administrative enforcement of orders.

§ 7501. Recognition of income-withholding order of another state.

(a) Authorization.—An income-withholding order issued in another state may be sent by first class mail to the person or entity defined as the obligor's employer under section 4302 (relating to definitions) without first filing a petition or comparable pleading or registering the order with a tribunal of this State. Upon receipt of the order, the employer shall do all of the following:

(1) 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.

(2) Immediately provide a copy of the order to the obligor.

(3) Distribute the funds as directed in the withholding order.

(b) Contests.—An obligor may contest the validity or enforcement of an income-withholding order issued in another state in the same manner as if the order had been issued by a tribunal of this State. Section 7604 (relating to choice of law) applies to the contest. The obligor must give notice of the contest to any support enforcement agency providing services to the obligee and to:

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

(2) if no person or agency is designated, the obligee.

§ 7502. Administrative enforcement of orders.

(a) Initiation.—A party 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) Procedure.—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 part.

CHAPTER 76
ENFORCEMENT AND MODIFICATION
OF SUPPORT ORDER AFTER REGISTRATION

Subchapter

- A. Registration and Enforcement of Support Order
- B. Contest of Validity or Enforcement
- C. Registration and Modification of Child Support Order

SUBCHAPTER A
REGISTRATION AND ENFORCEMENT OF SUPPORT ORDER

Sec.

- 7601. Registration of order for enforcement.
- 7602. Procedure to register order for enforcement.
- 7603. Effect of registration for enforcement.
- 7604. Choice of law.

§ 7601. Registration of order for enforcement.

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

§ 7602. Procedure to register order for enforcement.

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

- (1) A letter of transmittal to the tribunal requesting registration and enforcement.
- (2) Two copies, including one certified copy, of the order to be registered, including any modification of the order.
- (3) A sworn statement by the party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage.

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

- (i) the obligor's address and Social Security number;
- (ii) the name and address of the obligor's employer and any other source of income of the obligor; and
- (iii) a description and the location of property of the obligor in this State not exempt from execution.

(5) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

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

(c) Simultaneous relief.—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.

§ 7603. Effect of registration for enforcement.

(a) Procedure.—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) Enforcement.—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) Faith and credit.—Except as otherwise provided in this chapter, a tribunal of this State shall recognize and enforce but may not modify a registered order if the issuing tribunal had jurisdiction.

§ 7604. Choice of law.

(a) General rule.—The law of the issuing state governs the nature, extent, amount and duration of current payments and other obligations of support and the payment of arrearages under the order.

(b) Proceeding for arrearages.—In a proceeding for arrearages, the statute of limitation under the laws of this State or of the issuing state, whichever is longer, applies.

SUBCHAPTER B CONTEST OF VALIDITY OR ENFORCEMENT

Sec.

7605. Notice of registration of order.

7606. Procedure to contest validity or enforcement of registered order.

7607. Contest of registration or enforcement.

7608. Confirmed order.

§ 7605. Notice of registration of order.

(a) Requirement.—If 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) Contents.—The notice must inform the nonregistering party of all of the following:

(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 20 days after the date of mailing or personal service of the 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 will preclude further contest of that order with respect to any matter that could have been asserted.

(4) The amount of any alleged arrearages.

(c) Employer.—Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to section 4348 (relating to attachment of income).

§ 7606. Procedure to contest validity or enforcement of registered order.

(a) Action.—A nonregistering party seeking to contest the validity or enforcement of a registered order in this State must request a hearing within 20 days after the date of mailing or personal service of 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 7607 (relating to contest of registration or enforcement).

(b) Inaction.—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) Hearing.—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 by first class mail of the date, time and place of the hearing.

§ 7607. Contest of registration or enforcement.

(a) Defenses.—A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving any 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 7604 (relating to choice of law) precludes enforcement of some or all of the arrearages.

(b) Relief.—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) Affirmance.—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.

§ 7608. Confirmed order.

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.

SUBCHAPTER C REGISTRATION AND MODIFICATION OF CHILD SUPPORT ORDER

Sec.

7609. Procedure to register child support order of another state for modification.

7610. Effect of registration for modification.

7611. Modification of child support order of another state.

7612. Recognition of order modified in another state.

§ 7609. Procedure to register child support order of another state for modification.

A party or support enforcement agency seeking to modify or to enforce a child support order issued in another state must register that order in this State in the same manner provided in Subchapter A (relating to registration and enforcement of support order) 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.

§ 7610. Effect of registration for 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 7611 (relating to modification of child support order of another state) have been met.

§ 7611. Modification of child support order of another state.

(a) Authority.—After a child support order issued in another state has been registered in this State, the responding tribunal of this State may modify that order only if after notice and hearing it finds any of the following:

(1) The following requirements are met:

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

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

(iii) the respondent is subject to the personal jurisdiction of the tribunal of this State.

(2) An individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed a written consent in the issuing tribunal providing that a tribunal of this State may modify the support order and assume continuing, exclusive jurisdiction over the order.

(b) General rule.—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) Restriction.—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.

(d) Continuing, exclusive jurisdiction.—On issuance of an order modifying a child support order issued in another state, a tribunal of this State becomes the tribunal of continuing, exclusive jurisdiction.

(e) Filing.—Within 30 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 which had continuing, exclusive jurisdiction over the earlier order and in each tribunal in which the party knows that earlier order has been registered.

§ 7612. Recognition of order modified in another state.

A tribunal of this State shall recognize a modification of its earlier child support order by a tribunal of another state which assumed jurisdiction pursuant to a law substantially similar to this part and, upon request, except as otherwise provided in this part, shall do all of the following:

(1) Enforce the order that was modified only as to amounts accruing before the modification.

(2) Enforce only nonmodifiable aspects of that order.

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

(4) Recognize the modifying order of the other state upon registration for the purpose of enforcement.

CHAPTER 77
DETERMINATION OF PARENTAGE

Sec.

7701. Proceeding to determine parentage.

§ 7701. Proceeding to determine parentage.

(a) Jurisdiction.—A tribunal of this State may serve as an initiating or responding tribunal in a proceeding brought under this part or a law substantially similar to this part, the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

(b) Choice of law.—In a proceeding to determine parentage, a responding tribunal of this State shall apply the procedural and substantive law of this State and the rules of this State on choice of law.

CHAPTER 78
INTERSTATE RENDITION

Sec.

7801. Grounds for rendition.

7802. Conditions of rendition.

§ 7801. Grounds for rendition.

(a) Definition of Governor.—For purposes of this chapter, “Governor” includes an individual performing the functions of Governor or the executive authority of a state covered by this part.

(b) Authority of Governor.—The Governor of this State may do all of the following:

(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.

(2) On the demand by 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) Extended extradition.—A provision for extradition of individuals not inconsistent with this part 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 from the demanding state.

§ 7802. Conditions of rendition.

(a) Extradition to this State.—Before making 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 60

days previously the obligee had initiated proceedings for support pursuant to this part or that the proceeding would be of no avail.

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

(c) Declining to honor demand.—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.

CHAPTER 79 MISCELLANEOUS PROVISIONS

Sec.

7901. Uniformity of application and construction.

§ 7901. Uniformity of application and construction.

This part shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this part among states enacting it.

PART VIII-A INTRASTATE FAMILY SUPPORT

Chapter

81. General Provisions

82. Jurisdiction

83. Civil Provisions of General Application

84. Enforcement and Modification of Support Order After Registration

CHAPTER 81 GENERAL PROVISIONS

Sec.

8101. Short title of part and definitions.

8102. Scope.

8103. Remedies cumulative.

§ 8101. Short title of part and definitions.

(a) Short title of part.—This part shall be known and may be cited as the Intrastate Family Support Act.

(b) Definitions.—Subject to additional definitions contained in subsequent provisions of this part which are applicable to specific provisions of this part, the following words and phrases when used in this part shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Child.” 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.

“Child support order.” A support order for a child, including a child who has attained the age of majority.

“Department.” The Department of Public Welfare of the Commonwealth.

“Duty of support.” An obligation imposed or imposable by law to provide support for a child, spouse or former spouse. The term includes an unsatisfied obligation to provide support.

“Income.” The term includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the laws of this Commonwealth.

“Income-withholding order.” An order or other legal process directed to an obligor’s employer, in accordance with section 4348 (relating to attachment of income) to withhold support from the income of the obligor.

“Initiating county.” A county in which a proceeding under this part or a law substantially similar to this part, the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act is filed for forwarding to a responding county.

“Initiating tribunal.” The authorized tribunal in an initiating county.

“Issuing county.” The county in which a tribunal issues a support order or renders a judgment determining parentage.

“Issuing tribunal.” The tribunal that issues a support order or renders a judgment determining parentage.

“Law.” The term includes decisional and statutory law and rules and regulations having the force of law.

“Obligee.” Any of the following:

(1) 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.

(2) A 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.

(3) An individual seeking a judgment determining parentage of the individual’s child.

(4) The Department of Public Welfare.

“Obligor.” An individual or the estate of a decedent that:

- (1) owes or is alleged to owe a duty of support;
- (2) is alleged but has not been adjudicated to be a parent of a child; or
- (3) is liable under a support order.

“Register.” To record a support order or judgment determining parentage in the office designated by a court of common pleas.

“Registering tribunal.” A tribunal in which a support order is registered.

“Responding county.” A county to which a proceeding is forwarded under this part.

“Responding tribunal.” The authorized tribunal in a responding county.

“Secretary.” The Secretary of Public Welfare of the Commonwealth.

“Spousal support order.” A support order for a spouse or former spouse of the obligor.

“Support enforcement agency.” The department, a domestic relations section of a tribunal, a public official or a public agency authorized to seek:

- (1) enforcement of support orders or laws relating to the duty of support;
- (2) establishment or modification of child support;
- (3) determination of parentage; or
- (4) location of obligors or their assets.

“Support order.” A judgment, decree or order, whether temporary, final or subject to modification, whether incidental to a pending divorce, for the benefit of a child, a spouse or a former spouse, which provides for monetary support, health care, arrearages or reimbursement. The term includes related costs and fees, interest, income withholding, attorney fees and other relief.

“Title IV-D attorney.” The official in the appropriate county who, by statute, contract or appointment, has the duty to represent obligees in support actions brought in the county.

“Tribunal.” A court of common pleas.

§ 8102. Scope.

This part applies to actions between parties from different counties in this Commonwealth. This part does not apply to actions under Part VIII (relating to uniform interstate family support).

§ 8103. Remedies cumulative.

Remedies provided by this part are cumulative and do not affect the availability of remedies under other law. The procedures established by Pa.R.C.P. No. 1910.1 et seq. (relating to action for support) shall be used in preference to the procedures of this part unless any of the following applies:

- (1) The tribunal or domestic relations section determines that use of this part is necessary for the effective establishment or enforcement of support because any of the following apply:
 - (i) After diligent effort, the obligee is unable to effect service upon the obligor.
 - (ii) It is not possible to enter an order against the obligor in the county where the obligee resides.

(iii) The obligor is already subject to an order for support in the case at bar or in any other case.

(2) The obligee requests proceedings under this part.

CHAPTER 82 JURISDICTION

Sec.

8201. Continuing, exclusive jurisdiction.

8202. Recognition of support orders.

8203. Credit for payments.

§ 8201. Continuing, exclusive jurisdiction.

(a) Extent.—A tribunal issuing a support order has continuing, exclusive jurisdiction over a support order unless otherwise provided by Part VIII (relating to uniform interstate family support) or this part.

(b) Faith and credit.—A tribunal shall recognize the continuing, exclusive jurisdiction of another tribunal which has issued a support order.

§ 8202. Recognition of support orders.

(a) Principles.—If a proceeding is brought under this part and more than one support order has been issued in this Commonwealth with regard to the same obligation, a tribunal shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:

(1) If two or more tribunals have issued support orders for the same obligation and only one of the tribunals would have continuing, exclusive jurisdiction under this part, the order of that tribunal must be recognized.

(2) If two or more tribunals have issued support orders for the same obligation and more than one of the tribunals would have continuing, exclusive jurisdiction under this part, an order issued by a tribunal in the county where the obligee resides must be recognized, but, if an order has not been issued in the county where the obligee resides, the order most recently issued must be recognized.

(3) If two or more tribunals have issued support orders for the same obligation and none of the tribunals would have continuing, exclusive jurisdiction under this part, the tribunal may issue a support order which must be recognized.

(b) Result.—The tribunal that has issued an order recognized under subsection (a) is the tribunal having continuing, exclusive jurisdiction.

§ 8203. Credit for payments.

Amounts collected and credited for a particular period pursuant to a support order issued by one tribunal must be credited against the amounts accruing or accrued for the same period under a support order issued by another tribunal.

CHAPTER 83
CIVIL PROVISIONS OF GENERAL APPLICATION

Sec.

- 8301. Proceedings under this part.
- 8302. Action by minor parent.
- 8303. Duties of initiating tribunal.
- 8304. Duties and powers of responding tribunal.
- 8305. Inappropriate tribunal.
- 8306. Duties of support enforcement agency.
- 8307. Supervisory duty.
- 8308. Private counsel.
- 8309. Nondisclosure of information in exceptional circumstances.
- 8310. Nonparentage not a defense.
- 8311. Special rules of evidence and procedure.
- 8312. Assistance with discovery.
- 8313. Costs and fees.

§ 8301. Proceedings under this part.

(a) Scope.—This part provides for the following proceedings:

- (1) Establishment of an order for spousal support or child support.
- (2) Registration of an order for spousal support or child support of another county for enforcement or modification pursuant to Chapter 84 (relating to enforcement and modification of support order after registration).

(b) Commencement.—An individual petitioner or a support enforcement agency must commence a proceeding authorized under this part by filing a petition or complaint in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or complaint directly in a tribunal of another county which has or can obtain personal jurisdiction over the respondent.

§ 8302. Action by minor parent.

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.

§ 8303. Duties of initiating tribunal.

Upon the filing of a petition or complaint authorized by this part, an initiating tribunal shall forward one copy of the petition or complaint and its accompanying documents to the responding tribunal.

§ 8304. Duties and powers of responding tribunal.

(a) Filing and notice.—If a responding tribunal receives a petition, a complaint or comparable pleading from an initiating tribunal or directly pursuant to section 8301(b) (relating to proceedings under this part), it shall file the pleading and notify the petitioner by first class mail where and when it was filed.

(b) Action.—A responding tribunal, to the extent otherwise authorized by law, may do any of the following:

(1) Exercise continuing, exclusive jurisdiction to issue or enforce a support order, modify a support order or render a judgment to determine parentage.

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

(3) Order income withholding.

(4) Determine the amount of any arrearages and specify a method of payment.

(5) Enforce orders by civil or criminal contempt, or both.

(6) Set aside property for satisfaction of the support order.

(7) Place liens and order execution on the obligor's property.

(8) Order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment and telephone number at 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 state and local computer systems for criminal warrants.

(10) Order the obligor to seek appropriate employment by specified methods.

(11) Award reasonable attorney fees and other fees and costs.

(12) Issue a temporary child support order pending judicial resolution of a dispute regarding paternity if any of the following apply:

(i) The obligor has signed an acknowledgment of paternity.

(ii) The obligor has been determined under State law to be the parent.

(iii) There is clear and convincing evidence that the obligor is the child's parent.

(13) Grant any other available remedy.

(c) Findings of fact.—A responding tribunal shall include in a support order issued under this part or in the documents accompanying the order the findings of fact on which the support order is based.

(d) Visitation.—A responding tribunal may not condition the payment of a support order issued under this part upon compliance by a party with provisions for visitation.

(e) Notice.—If a responding tribunal issues an order under this part, the tribunal shall send a copy of the order by first class mail to the petitioner and the respondent and to the initiating tribunal, if any.

§ 8305. Inappropriate tribunal.

If a petition, complaint or comparable pleading is received by an inappropriate tribunal, it shall forward the pleading and accompanying documents to an appropriate tribunal and notify the petitioner by first class mail where and when the pleading was sent.

§ 8306. Duties of support enforcement agency.

(a) General duty.—A support enforcement agency upon request shall provide services to an obligee in a proceeding under this part.

(b) Specific duties.—A support enforcement agency that is providing services to the petitioner as appropriate shall do all of the following:

(1) Take all steps necessary to enable an appropriate tribunal 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 from an initiating, responding or registering tribunal, send a copy of the notice by first class mail to the petitioner.

(5) Within two days, exclusive of Saturdays, Sundays and legal holidays, after receipt of a written communication from the respondent, send a copy of the communication by first class mail to the petitioner.

(6) Provide to the petitioner and respondent notice of all proceedings within two days, exclusive of Saturdays, Sundays and legal holidays, of setting a date for proceedings pursuant to this part.

(7) Provide to the petitioner and respondent a copy of all recommendations and court orders, including findings of fact, within two days, exclusive of Saturdays, Sundays and legal holidays, of issuing the recommendations or court order.

(8) Provide to the petitioner and respondent a copy of the court's procedure to file a demand for a de novo hearing or to file exception to the recommendation of the hearing officer.

(9) Notify the petitioner if jurisdiction over the respondent cannot be obtained.

(c) Fiduciaries.—This part does not create 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.

§ 8307. Supervisory duty.

(a) Secretary.—If the secretary determines that a support enforcement agency other than the department is neglecting or refusing to provide services to an individual, the secretary may order the agency to perform its duties under this part or may provide those services directly to the individual.

(b) Attorney General.—If the Attorney General determines that the department is neglecting or refusing to provide services to an individual, the Attorney General may order the department to perform its duties under this part or may provide those services directly to the individual.

§ 8308. Private counsel.

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

§ 8309. Nondisclosure of information in exceptional circumstances.

Upon a finding, which may be made *ex parte*, that the health, safety or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this part.

§ 8310. Nonparentage not a 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 part.

§ 8311. Special rules of evidence and procedure.

(a) Physical presence.—The physical presence of the petitioner in a responding tribunal is not required for the establishment, enforcement or modification of a support order or the rendition of a judgment determining parentage.

(b) Representation.—The interests of the Commonwealth in establishing and enforcing support orders shall be represented, where appropriate, by the county Title IV-D attorney in a proceeding brought before the responding tribunal.

(c) Hearsay exception.—A verified petition, affidavit or document, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness.

(d) Payment record.—A copy of the record of 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.

(e) Bills.—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.

(f) Transmission of documentary evidence.—Documentary evidence transmitted to a tribunal by telephone, telecopier or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.

(g) Testimony.—In a proceeding under this part, a tribunal may permit a party or witness to be deposed or to testify by telephone, audiovisual means or other electronic means at a designated tribunal or other location. Tribunals shall cooperate in designating an appropriate location for the deposition or testimony.

§ 8312. Assistance with discovery.

A tribunal may do any of the following:

- (1) Request another tribunal to assist in obtaining discovery.
- (2) Upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by another tribunal.

§ 8313. Costs and fees.

(a) Prohibition.—The department or a support enforcement agency may not be required to pay a filing fee or other costs.

(b) Obligor.—If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney 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 department or against the support enforcement agency of either the initiating county or the responding county except as provided by other law. Attorney 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) Dilatory actions.—Except as provided in subsection (a), the tribunal shall order the payment of costs and reasonable attorney fees if it determines that a hearing was requested primarily for delay. In a proceeding under Chapter 76 (relating to enforcement and modification of support order after registration), a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

CHAPTER 84
ENFORCEMENT AND MODIFICATION
OF SUPPORT ORDER AFTER REGISTRATION

Subchapter

- A. Registration of Support Order
- B. Contest of Validity or Enforcement

SUBCHAPTER A
REGISTRATION OF SUPPORT ORDER

Sec.

8401. Registration of order.

8402. Procedure to register order.

§ 8401. Registration of order.

A support order issued by a tribunal may be registered in any tribunal of competent jurisdiction.

§ 8402. Procedure to register order.

(a) General rule.—A support order may be registered by sending the following documents and information to the appropriate tribunal:

(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 party seeking registration or a certified statement by the custodian of the records showing the amount of any arrearage.

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

(i) the obligor's address and Social Security number;

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

(iii) a description and the location of property of the obligor not exempt from execution.

(5) The name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

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

SUBCHAPTER B CONTEST OF VALIDITY OR ENFORCEMENT

Sec.

8411. Notice of registration of order.

8412. Procedure to contest validity of registered order.

8413. Contest of registration or enforcement.

8414. Confirmed order.

8415. Effect of a confirmed order.

§ 8411. Notice of registration of order.

(a) Requirement.—If a support order or order issued by another tribunal 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. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) Contents.—The notice must inform the nonregistering party of all of the following:

(1) A registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal.

(2) A hearing to contest the validity of the registered order must be requested within 20 days after the date of mailing or personal service of the notice.

(3) Failure to contest the validity 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 will preclude further contest of that order with respect to any matter that could have been asserted.

(4) The amount of any alleged arrearages.

§ 8412. Procedure to contest validity of registered order.

(a) Action.—A nonregistering party seeking to contest the validity of a registered order must request a hearing within 20 days after the date of mailing or personal service of notice of the registration. The nonregistering party may seek to vacate the registration or the amount of any alleged arrearages pursuant to section 8413 (relating to contest of registration or enforcement).

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

(c) Hearing.—If a nonregistering party requests a hearing to contest the validity of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties by first class mail of the date, time and place of the hearing.

§ 8413. Contest of registration or enforcement.

(a) Defenses.—A party contesting the validity of a registered order or seeking to vacate the registration has the burden of proving one 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) Full payment has been made and there is no continuing support obligation.

(b) Relief.—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.

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

§ 8414. Confirmed order.

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.

§ 8415. Effect of a confirmed order.

A confirmed order has the following effect:

- (1) It confers continuing, exclusive jurisdiction to the responding tribunal which registered the order.

(2) It eliminates the jurisdiction of the tribunal which issued the order or requested that the order be registered.

Section 7. This act shall apply to actions initiated on or after the effective date of this act.

Section 8. This act shall take effect as follows:

- (1) The amendment of 23 Pa.C.S. § 2511 shall take effect in 60 days.
- (2) The remainder of this act shall take effect immediately.

APPROVED—The 4th day of April, A.D. 1996.

THOMAS J. RIDGE