

HOUSE BILL NO. 227

INTRODUCED BY K. DUDIK

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4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE 2008 UNIFORM FAMILY SUPPORT ACT;
5 AMENDING SECTIONS 40-5-103, 40-5-143, 40-5-144, 40-5-145, 40-5-146, 40-5-147, 40-5-148, 40-5-149,
6 40-5-150, 40-5-151, 40-5-152, 40-5-153, 40-5-154, 40-5-157, 40-5-158, 40-5-159, 40-5-160, 40-5-161, 40-5-162,
7 40-5-163, 40-5-164, 40-5-165, 40-5-166, 40-5-171, 40-5-172, 40-5-173, 40-5-174, 40-5-175, 40-5-176, 40-5-177,
8 40-5-178, 40-5-179, 40-5-180, 40-5-181, 40-5-183, 40-5-184, 40-5-185, 40-5-186, 40-5-187, 40-5-188, 40-5-189,
9 40-5-190, 40-5-191, 40-5-192, 40-5-193, 40-5-194, 40-5-195, 40-5-196, 40-5-197, 40-5-272, AND 40-5-923,
10 MCA; AND PROVIDING AN EFFECTIVE DATE."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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14 **NEW SECTION. Section 1. Application of part to resident of foreign country and foreign support**
15 **proceeding.** (1) A tribunal of this state shall apply 40-5-101 through 40-5-152 and 40-5-157 through 40-5-196
16 and, as applicable, [sections 6 through 18] to a support proceeding involving:

- 17 (a) a foreign support order;
- 18 (b) a foreign tribunal; or
- 19 (c) an obligee, obligor, or child residing in a foreign country.

20 (2) A tribunal of this state that is requested to recognize and enforce a support order on the basis of
21 comity may apply the procedural and substantive provisions of 40-5-101 through 40-5-152 and 40-5-157 through
22 40-5-196.

23 (3) [Sections 6 through 18] apply only to a support proceeding under the convention. In such a
24 proceeding, if a provision of [sections 6 through 18] is inconsistent with 40-5-101 through 40-5-152 and 40-5-157
25 through 40-5-196, [sections 6 through 18] control.

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27 **NEW SECTION. Section 2. Duration of personal jurisdiction.** Personal jurisdiction acquired by a
28 tribunal of this state in a proceeding under this part or other law of this state relating to a support order continues
29 as long as a tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction
30 to enforce its order as provided by 40-5-149, 40-5-150, and [section 3].

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NEW SECTION. Section 3. Continuing, exclusive jurisdiction to modify spousal support order.

(1) 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.

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

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

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

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

NEW SECTION. Section 4. Jurisdiction to modify child support order of foreign country. (1)

Except as otherwise provided in [section 16], if a foreign country lacks or refuses to exercise jurisdiction to modify its child support 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 the consent to modification of a child support order otherwise required of the individual pursuant to 40-5-194 has been given or whether the individual seeking modification is a resident of this state or of the foreign country.

(2) An order issued by a tribunal of this state modifying a foreign child support order pursuant to this section is the controlling order.

NEW SECTION. Section 5. Procedure to register child support order of foreign country for

modification. A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child support order not under the convention may register that order in this state under 40-5-184 through 40-5-191 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or at another time. The petition must specify the grounds for modification.

NEW SECTION. Section 6. Definitions. In [sections 6 through 18]:

(1) "Application" means a request under the convention by an obligee or obligor, or on behalf of a child,

1 made through a central authority for assistance from another central authority.

2 (2) "Central authority" means the entity designated by the United States or a foreign country described
3 in 40-5-103(5)(d) to perform the functions specified in the convention.

4 (3) "Convention support order" means a support order of a tribunal of a foreign country described in
5 40-5-103(5)(d).

6 (4) "Direct request" means a petition filed by an individual in a tribunal of this state in a proceeding
7 involving an obligee, obligor, or child residing outside the United States.

8 (5) "Foreign central authority" means the entity designated by a foreign country described in
9 40-5-103(5)(d) to perform the functions specified in the convention.

10 (6) "Foreign support agreement":

11 (a) means an agreement for support in a record that:

12 (i) is enforceable as a support order in the country of origin;

13 (ii) has been:

14 (A) formally drawn up or registered as an authentic instrument by a foreign tribunal; or

15 (B) authenticated by, or concluded, registered, or filed with a foreign tribunal; and

16 (iii) may be reviewed and modified by a foreign tribunal; and

17 (b) includes a maintenance arrangement or authentic instrument under the convention.

18 (7) "United States central authority" means the secretary of the United States department of health and
19 human services.

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21 **NEW SECTION. Section 7. Applicability.** [Sections 6 through 18] apply only to a support proceeding
22 under the convention. In such a proceeding, if a provision of [sections 6 through 18] is inconsistent with 40-5-101
23 through 40-5-152 and 40-5-157 through 40-5-196, [sections 6 through 18] control.

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25 **NEW SECTION. Section 8. Relationship of department of public health and human services to**
26 **United States central authority.** The department of public health and human services of this state is recognized
27 as the agency designated by the United States central authority to perform specific functions under the
28 convention.

29
30 **NEW SECTION. Section 9. Initiation by department of public health and human services of**

1 **support proceeding under convention.** (1) In a support proceeding under [sections 6 through 18], the
2 department of public health and human services of this state shall:

- 3 (a) transmit and receive applications; and
4 (b) initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.
5 (2) The following support proceedings are available to an obligee under the convention:
6 (a) recognition or recognition and enforcement of a foreign support order;
7 (b) enforcement of a support order issued or recognized in this state;
8 (c) establishment of a support order if there is no existing order, including, if necessary, determination
9 of parentage of a child;
10 (d) establishment of a support order if recognition of a foreign support order is refused under [section
11 13(2)(b), (2)(d), or (2)(i)];
12 (e) modification of a support order of a tribunal of this state; and
13 (f) modification of a support order of a tribunal of another state or foreign country.

14 (3) The following support proceedings are available under the convention to an obligor against which
15 there is an existing support order:

- 16 (a) recognition of an order suspending or limiting enforcement of an existing support order of a tribunal
17 of this state;
18 (b) modification of a support order of a tribunal of this state; and
19 (c) modification of a support order of a tribunal of another state or a foreign country.

20 (4) A tribunal of this state may not require security, bond, or deposit, however described, to guarantee
21 the payment of costs and expenses in proceedings under the convention.

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23 **NEW SECTION. Section 10. Direct request.** (1) A petitioner may file a direct request seeking
24 establishment or modification of a support order or determination of parentage of a child. In the proceeding, the
25 law of this state applies.

26 (2) A petitioner may file a direct request seeking recognition and enforcement of a support order or
27 support agreement. In the proceeding, [sections 11 through 18] apply.

28 (3) In a direct request for recognition and enforcement of a convention support order or foreign support
29 agreement:

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

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

4 (4) A petitioner filing a direct request is not entitled to assistance from the department of public health
5 and human services.

6 (5) [Sections 6 through 18] do not prevent the application of laws of this state that provide simplified,
7 more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or
8 foreign support agreement.

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10 **NEW SECTION. Section 11. Registration of convention support order.** (1) Except as otherwise
11 provided in [sections 6 through 18], a party who is an individual or a support enforcement agency seeking
12 recognition of a convention support order shall register the order in this state as provided in 40-5-184 through
13 40-5-195 and [sections 4 and 5].

14 (2) Notwithstanding 40-5-171 and 40-5-185(1), a request for registration of a convention support order
15 must be accompanied by:

16 (a) a complete text of the support order or an abstract or extract of the support order drawn up by the
17 issuing foreign tribunal, which may be in the form recommended by the Hague conference on private international
18 law;

19 (b) a record stating that the support order is enforceable in the issuing country;

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

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

25 (e) a record showing a requirement for automatic adjustment of the amount of support, if any, and the
26 information necessary to make the appropriate calculations; and

27 (f) if necessary, a record showing the extent to which the applicant received free legal assistance in the
28 issuing country.

29 (3) A request for registration of a convention support order may seek recognition and partial enforcement
30 of the order.

1 (4) A tribunal of this state may vacate the registration of a convention support order without the filing of
2 a contest under [section 12] only if, acting on its own motion, the tribunal finds that recognition and enforcement
3 of the order would be manifestly incompatible with public policy.

4 (5) The tribunal shall promptly notify the parties of the registration or the order vacating the registration
5 of a convention support order.

6
7 **NEW SECTION. Section 12. Contest of registered convention support order.** (1) Except as
8 otherwise provided in [sections 6 through 18], 40-5-188 through 40-5-191 apply to a contest of a registered
9 convention support order.

10 (2) A party contesting a registered convention support order shall file a contest not later than 30 days
11 after notice of the registration, but if the contesting party does not reside in the United States, the content must
12 be filed not later than 60 days after notice of the registration.

13 (3) If the nonregistering party fails to contest the registered convention support order by the time
14 specified in subsection (2), the order is enforceable.

15 (4) A contest of a registered convention support order may be based only on grounds set forth in [section
16 13]. The contesting party bears the burden of proof.

17 (5) In a contest of a registered convention support order, a tribunal of this state:

18 (a) is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and

19 (b) may not review the merits of the order.

20 (6) A tribunal of this state deciding a contest of a registered convention support order shall promptly
21 notify the parties of its decision.

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

24
25 **NEW SECTION. Section 13. Recognition and enforcement of registered convention support**
26 **order.** (1) Except as otherwise provided in subsection (2), a tribunal of this state shall recognize and enforce a
27 registered convention support order.

28 (2) The following grounds are the only grounds on which a tribunal of this state may refuse recognition
29 and enforcement of a registered convention support order:

30 (a) recognition and enforcement of the order is manifestly incompatible with public policy, including the

1 failure of the issuing tribunal to observe minimum standards of due process, which include notice and an
2 opportunity to be heard;

3 (b) the issuing tribunal lacked personal jurisdiction consistent with 40-5-145;

4 (c) the order is not enforceable in the issuing country;

5 (d) the order was obtained by fraud in connection with a matter of procedure;

6 (e) a record transmitted in accordance with [section 11] lacks authenticity or integrity;

7 (f) a proceeding between the same parties and having the same purpose is pending before a tribunal
8 of this state and that proceeding was the first to be filed;

9 (g) the order is incompatible with a more recent support order involving the same parties and having the
10 same purpose if the more recent support order is entitled to recognition and enforcement under this part in this
11 state;

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

13 (i) in a case in which the respondent neither appeared nor was represented in the proceeding in the
14 issuing foreign country:

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

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

20 (j) the order was made in violation of [section 16].

21 (3) If a tribunal of this state does not recognize a convention support order under subsection (2)(b),
22 (2)(d), or (2)(i):

23 (a) the tribunal may not dismiss the proceedings without allowing a reasonable time for a party to request
24 the establishment of a new convention support order; and

25 (b) the department of public health and human services shall take all appropriate measures to request
26 a child support order for the obligee if the application for recognition and enforcement was received under [section
27 9].

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29 **NEW SECTION. Section 14. Partial enforcement.** If a tribunal of this state does not recognize and
30 enforce a convention support order in its entirety, it shall enforce any severable part of the order. An application

1 or direct request may seek recognition and partial enforcement of a convention support order.

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3 **NEW SECTION. Section 15. Foreign support agreement.** (1) Except as otherwise provided in
4 subsections (3) and (4), a tribunal of this state shall recognize and enforce a foreign support agreement registered
5 in this state.

6 (2) An application or direct request for recognition and enforcement of a foreign support agreement must
7 be accompanied by:

8 (a) a complete text of the foreign support agreement; and

9 (b) a record stating that the foreign support agreement is enforceable as an order of support in the
10 issuing country.

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

14 (4) In a contest of a foreign support agreement, a tribunal of this state may refuse recognition and
15 enforcement of the agreement if it finds:

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

17 (b) the agreement was obtained by fraud or falsification;

18 (c) the agreement is incompatible with a support order involving the same parties and having the same
19 purpose in this state, another state, or a foreign country if the support order is entitled to recognition and
20 enforcement under this part in this state; or

21 (d) the record submitted under subsection (2) lacks authenticity or integrity.

22 (5) A proceeding for recognition and enforcement of a foreign support agreement must be suspended
23 during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign
24 country.

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26 **NEW SECTION. Section 16. Modification of convention child support order.** (1) A tribunal of this
27 state may not modify a convention child support order if the obligee remains a resident of the foreign country
28 where the support order was issued unless:

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

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

3 (2) If a tribunal of this state does not modify a convention child support order because the order is not
4 recognized in this state, [section 13(3)] applies.

5
6 **NEW SECTION. Section 17. Personal information -- limit on use.** Personal information gathered or
7 transmitted under [sections 6 through 18] may be used only for the purposes for which it was gathered or
8 transmitted.

9
10 **NEW SECTION. Section 18. Record in original language -- English translation.** A record filed with
11 a tribunal of this state under [sections 6 through 18] must be in the original language and, if not in English, must
12 be accompanied by an English translation.

13
14 **Section 19.** Section 40-5-103, MCA, is amended to read:

15 **"40-5-103. Definitions.** In this part:

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

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

21 (3) "Convention" means the convention on the international recovery of child support and other forms
22 of family maintenance, concluded at The Hague on November 23, 2007.

23 ~~(3)(4)~~ "Duty of support":

24 ~~——(a)~~ means an obligation imposed or imposable by law to provide support for a child, spouse, or former
25 spouse; ~~and~~

26 ~~——(b)~~ ~~includes~~ including an unsatisfied obligation to provide support.

27 ~~(4)~~ ~~"Governor" includes an individual performing the functions of governor or the executive authority of~~
28 ~~any state covered by this part.~~

29 (5) "Foreign country" means a country, including a political subdivision of a country, other than the United
30 States, that authorizes the issuance of support orders and:

- 1 (a) that has been declared under the law of the United States to be a foreign reciprocating country;
 2 (b) that has established a reciprocal arrangement for child support with this state as provided in
 3 40-5-166;
 4 (c) that has enacted a law or established procedures for the issuance and enforcement of support orders
 5 that are substantially similar to the procedures under this part; or
 6 (d) in which the convention is in force with respect to the United States.
 7 (6) "Foreign support order" means a support order of a foreign tribunal.
 8 (7) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country
 9 that is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term
 10 includes a competent authority under the convention.
 11 ~~(5)~~(8) "Home state" means the state or foreign country in which a child lived with a parent or a person
 12 acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or
 13 comparable pleading for support and, if a child is less than 6 months old, the state or foreign country in which the
 14 child lived from birth with a parent or person acting as parent any of them. A period of temporary absence of a
 15 parent or person acting as parent any of them is counted as part of the 6-month or other period.
 16 ~~(6)~~(9) "Income" includes:
 17 ~~(a)~~ earnings or other periodic entitlements to money from any source; and
 18 ~~(b)~~ any other property subject to withholding for support under the law of this state.
 19 ~~(7)~~(10) "Income-withholding order" means an order or other legal process directed to an obligor's
 20 employer, as provided in Title 40, chapter 5, parts 3 and 4, or by a tribunal of another state to withhold support
 21 from the income of the obligor.
 22 ~~(8) "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is filed~~
 23 ~~for forwarding to a responding state pursuant to this part or a law or procedure substantially similar to this part,~~
 24 ~~the Uniform Reciprocal Enforcement of Support Act, the Revised Uniform Reciprocal Enforcement of Support Act,~~
 25 ~~or a law or procedure substantially similar to either of those acts or pursuant to a proceeding initiated by the~~
 26 ~~department of public health and human services under 40-5-263.~~
 27 ~~(9)~~(11) "Initiating tribunal" means the authorized tribunal in an initiating of a state or foreign country from
 28 which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is filed for
 29 forwarding to another state or foreign country.
 30 (12) "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a

1 judgment determining parentage of a child.

2 ~~(10)(13)~~ "Issuing state" means the state in which a tribunal issues a support order or ~~renders~~ a judgment
3 determining parentage of a child.

4 ~~(11)(14)~~ "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or
5 ~~renders~~ a judgment determining parentage of a child.

6 ~~(12)(15)~~ "Law" includes decisional and statutory law and rules and regulations having the force of law.

7 ~~(13)(16)~~ "Obligee" means:

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

10 (b) a foreign country, state, or political subdivision of a state to which the rights under a duty of support
11 or a support order have been assigned or that has independent claims based on financial assistance provided
12 to an individual obligee in place of child support; ~~or~~

13 (c) an individual seeking a judgment determining parentage of that individual's child; or

14 (d) a person that is a creditor in a proceeding under [sections 6 through 18].

15 ~~(14)(17)~~ "Obligor" means an individual or the estate of a decedent that:

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

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

18 (c) ~~who~~ is liable under a support order; or

19 (d) is a debtor in a proceeding under [sections 6 through 18].

20 (18) "Outside this state" means a location in another state or a country other than the United States,
21 whether or not the country is a foreign country.

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

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

27 ~~(15)(21)~~ "Register" means to file in a tribunal of this state a support order or judgment determining
28 parentage ~~in the registry of foreign support orders~~ of a child issued in another state or foreign country.

29 ~~(16)(22)~~ "Registering tribunal" means a tribunal in which a support order or a judgment determining
30 parentage of a child is registered.

1 ~~(17)~~(23) "Responding state" means a state in which a proceeding petition or comparable pleading for
 2 support or to determine parentage of a child is filed or to which a proceeding petition or comparable pleading is
 3 forwarded for filing from ~~an initiating~~ another state or foreign country ~~under this part or a law or procedure~~
 4 ~~substantially similar to this part, the Uniform Reciprocal Enforcement of Support Act, the Revised Uniform~~
 5 ~~Reciprocal Enforcement of Support Act, or a law or procedure substantially similar to either of those acts or under~~
 6 ~~a proceeding initiated by the department of public health and human services under 40-5-263.~~

7 ~~(18)~~(24) "Responding tribunal" means the authorized tribunal in a responding state or foreign country.

8 ~~(19)~~(25) "Spousal support order" means a support order for a spouse or former spouse of the obligor.

9 ~~(20)~~(26) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United
 10 States Virgin Islands, or any territory or insular possession ~~subject to~~ under the jurisdiction of the United States.
 11 The term "~~state~~" includes an Indian nation or tribe ~~or a foreign jurisdiction that has enacted a law or established~~
 12 ~~procedures for issuance and enforcement of support orders that are substantially similar to the procedures under~~
 13 ~~this part, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement~~
 14 ~~of Support Act.~~

15 ~~(21)~~(a)(27) "Support enforcement agency" means a public official, governmental entity, or private agency
 16 authorized to seek:

17 ~~(i)~~(a) seek enforcement of support orders or laws relating to the duty of support;

18 ~~(ii)~~(b) seek establishment or modification of child support;

19 ~~(iii)~~(c) a request determination of parentage of a child; ~~or~~

20 ~~(iv)~~(d) attempt to locate obligors or their assets; or

21 ~~(v)~~(e) request determination of the controlling child support order.

22 ~~(b)~~ Support enforcement agency includes:

23 ~~(i)~~ in cases brought under Title IV-D of the Social Security Act, the department of public health and
 24 human services; and

25 ~~(ii)~~ in all other cases, the prosecutor.

26 ~~(22)~~(28) (a) "Support order" means a judgment, decree, ~~or~~ order, decision, or directive, whether
 27 temporary, final, or subject to modification, ~~that:~~ issued in a state or foreign country

28 ~~(a)~~ is for the benefit of a child, a spouse, or a former spouse, ~~or a state or political subdivision;~~

29 ~~(b)~~ that provides for monetary support, health care, arrearages, retroactive support, or reimbursement;
 30 and for financial assistance provided to an individual obligee in place of child support.

1 ~~(c)~~(b) The term may include related costs and fees, interest, income withholding, automatic adjustment,
2 reasonable attorney fees, and other relief.

3 ~~(23)~~(29) "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish,
4 enforce, or modify support orders or to determine parentage of a child."

5
6 **Section 20.** Section 40-5-143, MCA, is amended to read:
7 "**40-5-143. Tribunals of this state State tribunals and support enforcement agency.** (1) The district
8 courts and the department of public health and human services are the tribunals of this state.

9 (2) The department of public health and human services provided for in 2-15-2201 is the support
10 enforcement agency of this state."

11
12 **Section 21.** Section 40-5-144, MCA, is amended to read:
13 "**40-5-144. Remedies cumulative.** (1) Remedies provided in by this part are cumulative and do not
14 affect the availability of remedies under other law or the recognition of a foreign support order on the basis of
15 comity.

16 (2) This part does not:
17 (a) provide the exclusive method of establishing or enforcing a support order under the law of this state;
18 or
19 (b) grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody
20 or visitation in a proceeding under this part."

21
22 **Section 22.** Section 40-5-145, MCA, is amended to read:
23 "**40-5-145. Bases for jurisdiction over nonresident.** (1) In a proceeding to establish; or enforce;~~or~~
24 ~~modify~~ a support order or to determine parentage of a child, a tribunal of this state may exercise personal
25 jurisdiction over a nonresident individual or the individual's guardian or conservator if:

26 ~~(1)~~(a) the individual is personally served with notice within this state;
27 ~~(2)~~(b) the individual submits to the jurisdiction of this state by consent in a record, by entering a general
28 appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
29 ~~(3)~~(c) the individual resided with the child in this state;
30 ~~(4)~~(d) the individual resided in this state and provided prenatal expenses or support for the child;

1 ~~(5)(e)~~ the child resides in this state as a result of the acts or directives of the individual;
 2 ~~(6)(f)~~ the individual engaged in sexual intercourse in this state and the child may have been conceived
 3 by that act of intercourse; ~~or~~
 4 (g) the individual asserted parentage of a child in the putative father registry maintained in this state by
 5 the department of public health and human services; or
 6 ~~(7)(h)~~ there is any other basis consistent with the constitutions of this state and the United States for the
 7 exercise of personal jurisdiction.

8 (2) The bases of personal jurisdiction set forth in subsection (1) or in any other law of this state may not
 9 be used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state
 10 unless the requirements of 40-5-194 are met or, in the case of a foreign support order, unless the requirements
 11 of [section 4] are met."

12
 13 **Section 23.** Section 40-5-146, MCA, is amended to read:
 14 "**40-5-146. Procedure when exercising jurisdiction over Application of part to nonresident subject**
 15 **to personal jurisdiction.** A tribunal of this state exercising personal jurisdiction over a nonresident pursuant to
 16 ~~40-5-145 may apply 40-5-175 to~~ in a proceeding under this part, under the law of this state relating to a support
 17 order, or recognizing a foreign support order may receive evidence from another state and 40-5-177 to outside
 18 this state pursuant to 40-5-175, communicate with a tribunal outside this state pursuant to 40-5-176, and obtain
 19 discovery through a tribunal of another state outside this state pursuant to 40-5-177. In all other respects,
 20 ~~40-5-158 40-5-157 through 40-5-166, 40-5-170 through 40-5-180, and 40-5-183 through 40-5-186 40-5-195, and~~
 21 [sections 4 and 5] do not apply and the tribunal shall apply the procedural and substantive law of this state;
 22 including the rules on choice of law other than those established by this part."

23
 24 **Section 24.** Section 40-5-147, MCA, is amended to read:
 25 "**40-5-147. Initiating and responding tribunal of this state.** Under this part, a tribunal of this state may
 26 serve as an initiating tribunal to forward proceedings to a tribunal of another state and as a responding tribunal
 27 for proceedings initiated in another state or a foreign country."

28
 29 **Section 25.** Section 40-5-148, MCA, is amended to read:
 30 "**40-5-148. Simultaneous proceedings in another state.** (1) A tribunal of this state may exercise

1 jurisdiction to establish a support order if the petition or comparable pleading is filed after a ~~petition or comparable~~
 2 pleading is filed in another state or a foreign country only if:

3 (a) the petition or comparable pleading in this state is filed before the expiration of the time allowed in
 4 the other state or the foreign country for filing a responsive pleading challenging the exercise of jurisdiction by
 5 the other state or the foreign country;

6 (b) the contesting party timely challenges the exercise of jurisdiction in the other state or the foreign
 7 country; and

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

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

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

15 (b) the contesting party timely challenges the exercise of jurisdiction in this state; and

16 (c) if relevant, the other state or foreign country is the home state of the child."
 17

18 **Section 26.** Section 40-5-149, MCA, is amended to read:

19 **"40-5-149. Continuing, exclusive jurisdiction to modify a child support order.** (1) A tribunal of this
 20 state ~~issuing that has issued~~ a child support order consistent with the law of this state has and shall exercise
 21 continuing, exclusive jurisdiction ~~over a~~ to modify its child support order if the order is the controlling order and:

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

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

28 (2) A tribunal of this state ~~issuing that has issued~~ a child support order consistent with the law of this
 29 state may not exercise ~~its~~ continuing, exclusive jurisdiction to modify the order if: ~~the order has been modified by~~
 30 ~~a tribunal of another state pursuant to this part or a law substantially similar to this part~~

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

4 (b) its order is not the controlling order.

5 (3) If a tribunal of another state has issued a child support order of this state is modified by a tribunal of
 6 another state pursuant to this part the Uniform Interstate Family Support Act or a law substantially similar to this
 7 part, that act that modifies a child support order of a tribunal of this state, tribunals of this state shall recognize
 8 the continuing, exclusive jurisdiction of the tribunal of the other state loses its continuing, exclusive jurisdiction
 9 with regard to prospective enforcement of the order issued in this state and may only:

10 ~~—— (a) enforce the order that was modified as to amounts accruing before the modification;~~

11 ~~—— (b) enforce nonmodifiable aspects of that order; and~~

12 ~~—— (c) provide other appropriate relief for violations of that order that occurred before the effective date of~~
 13 ~~the modification.~~

14 (4) A tribunal of this state ~~shall recognize the~~ that lacks continuing, exclusive jurisdiction ~~of to modify a~~
 15 child support order may serve as an initiating tribunal to request a tribunal of another state ~~that has issued a child~~
 16 support order pursuant to this part or a law substantially similar to this part to modify a support order issued in
 17 that state.

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

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

24

25 **Section 27.** Section 40-5-150, MCA, is amended to read:

26 **"40-5-150. Enforcement and modification of Continuing jurisdiction to enforce child support order**
 27 **by tribunal having continuing jurisdiction.** (1) A tribunal of this state that has issued a child support order
 28 consistent with the law of this state may serve as an initiating tribunal to request a tribunal of another state to
 29 enforce or modify a support order issued in that state;

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

1 that assumed jurisdiction pursuant to the Uniform Interstate Family Support Act; or
 2 (b) a money judgment for arrears of support and interest on the order accrued before a determination
 3 that an order of a tribunal of another state is the controlling order.

4 (2) A tribunal of this state ~~that has~~ having continuing, ~~exclusive~~ jurisdiction over a support order may act
 5 as a responding tribunal to enforce ~~or modify~~ the order of another state. If a party subject to the continuing,
 6 ~~exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal~~
 7 ~~may apply 40-5-175 to receive evidence from another state and 40-5-177 to obtain discovery through a tribunal~~
 8 ~~of another state.~~

9 ~~———(3) A tribunal of this state that lacks continuing, exclusive jurisdiction over a spousal support order may~~
 10 ~~not serve as a responding tribunal to modify a spousal support order of another state."~~

11
 12 **Section 28.** Section 40-5-151, MCA, is amended to read:

13 **"40-5-151. Recognition Determination of controlling child support orders order.** (1) If a proceeding
 14 is brought under this part and only one tribunal has issued a child support order, the order of that tribunal controls
 15 and must be recognized.

16 (2) If a proceeding is brought under this part and two or more child support orders have been issued by
 17 tribunals of this state, ~~or another state, or a foreign country~~ with regard to the same obligor and same child, a
 18 tribunal of this state having personal jurisdiction over both the obligor and individual obligee shall apply the
 19 following rules ~~in determining and by order shall determine~~ which order ~~to recognize for purposes of continuing,~~
 20 ~~exclusive jurisdiction~~ controls and must be recognized:

21 (a) If only one of the tribunals would have continuing, exclusive jurisdiction under this part, the order of
 22 that tribunal controls ~~and must be recognized.~~

23 (b) If more than one of the tribunals would have continuing, exclusive jurisdiction under this part;
 24 (i) an order issued by a tribunal in the current home state of the child controls and must be recognized.

25 ~~However,; or~~
 26 (ii) if an order has not been issued in the current home state of the child, the order most recently issued
 27 controls and must be recognized.

28 (c) If none of the tribunals would have continuing, exclusive jurisdiction under this part, the tribunal of
 29 this state ~~having jurisdiction over the parties~~ shall issue a child support order, which controls ~~and must be~~
 30 ~~recognized.~~

1 (3) If two or more child support orders have been issued for the same obligor and same child, ~~and if the~~
 2 ~~obligor or the individual obligee resides in this state, a party may request~~ upon request of a party who is an
 3 individual or that is a support enforcement agency, a tribunal of this state to having personal jurisdiction over both
 4 the obligor and the obligee who is an individual shall determine which order controls and must be recognized
 5 under subsection (2). The request may be filed with a registration for enforcement or registration for modification
 6 pursuant to 40-5-184 through 40-5-195 and [sections 4 and 5] or may be filed as a separate proceeding.

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

10 (4)(5) The tribunal that issued the controlling order under ~~subsections (1) through (3) is the tribunal that~~
 11 subsection (1), (2), or (3) has continuing, exclusive jurisdiction under to the extent provided in 40-5-149 or
 12 40-5-150.

13 (5)(6) A tribunal of this state that determines, by order, ~~the identity of which is the controlling order under~~
 14 subsection (2)(a), or (2)(b), or (3) or that issues a new controlling child support order under subsection (2)(c) shall
 15 state in that order:

16 (a) the basis upon which the tribunal made its determination;

17 (b) the amount of prospective support, if any; and

18 (c) the total amount of consolidated arrears and accrued interest, if any, under all of the orders after all
 19 payments made are credited as provided by 40-5-181.

20 (6)(7) Within 30 days after issuance of ~~the an~~ order determining ~~the identity of which is the controlling~~
 21 order, the party obtaining the order shall file a certified copy of it with in each tribunal that issued or registered
 22 an earlier order of child support. A party who obtains or support enforcement agency obtaining the order and that
 23 fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file
 24 arises. The failure to file does not affect the validity or enforceability of the controlling order.

25 (8) An order that has been determined to be the controlling order or a judgment for consolidated arrears
 26 of support and interest, if any, made pursuant to this section must be recognized in proceedings under this part."
 27

28 **Section 29.** Section 40-5-152, MCA, is amended to read:

29 **"40-5-152. Multiple-child Child support orders for two or more obligees.** In responding to multiple
 30 registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard

1 to the same obligor and different individual obligees, at least one of which ~~orders~~ was issued by a tribunal of
 2 another state or a foreign country, a tribunal of this state shall enforce those orders in the same manner as if the
 3 ~~multiple~~ orders had been issued by a tribunal of this state."

4

5 **Section 30.** Section 40-5-153, MCA, is amended to read:

6 **"40-5-153. Grounds for rendition.** (1) For purposes of 40-5-154 and this section, "governor" includes
 7 an individual performing the functions of governor or the executive authority of a state covered by this part.

8 ~~(1)~~(2) The governor of this state may:

9 (a) demand ~~of that~~ the governor of another state ~~the~~ surrender ~~of~~ an individual found in the other state
 10 who is charged criminally in this state with ~~failing~~ having failed to provide for the support of an obligee; or

11 (b) on the demand by of the governor of another state, surrender an individual found in this state who
 12 is charged criminally in ~~that the other~~ state with ~~failing~~ having failed to provide for the support of an obligee.

13 ~~(2)~~(3) A provision for extradition of individuals ~~that is~~ not inconsistent with this part applies to the demand
 14 even if the individual whose surrender is demanded was not in the demanding state when the crime was allegedly
 15 committed and has not fled from ~~the demanding state~~ there."

16

17 **Section 31.** Section 40-5-154, MCA, is amended to read:

18 **"40-5-154. Conditions of rendition.** (1) Before making a demand that the governor of another state
 19 surrender an individual charged criminally in this state with having failed to provide for the support of ~~a child or~~
 20 ~~to pay support to~~ an obligee, the governor of this state may require ~~any a~~ prosecutor of this state to demonstrate:

21 ~~——~~ ~~(a)~~ that at least 60 days previously, the obligee had initiated proceedings for support pursuant to this part;
 22 or

23 ~~(b)~~ that the proceeding would be of no avail.

24 (2) If, under this part or a law substantially similar to this part, ~~the Uniform Reciprocal Enforcement of~~
 25 ~~Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act,~~ the governor of another state makes
 26 a demand that the governor of this state surrender an individual charged criminally in that state with having failed
 27 to provide for the support of a child or ~~to pay support to an obligee~~ other individual to whom a duty of support is
 28 owed, the governor ~~of this state~~ may require a prosecutor to investigate the demand and report whether a
 29 proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective
 30 but has not been initiated, the governor ~~of this state~~ may delay honoring the demand for a reasonable time to

1 permit the initiation of a proceeding.

2 (3) If a proceeding for support has been initiated and the individual whose rendition is demanded
3 prevails, the governor ~~of this state~~ may decline to honor the demand. If the petitioner prevails and the individual
4 whose rendition is demanded is subject to a support order, the governor ~~of this state~~ may decline to honor the
5 demand if the individual is complying with the support order."

6

7 **Section 32.** Section 40-5-157, MCA, is amended to read:

8 **"40-5-157. ~~Income-withholding~~ Employer receipt of income-withholding orders of another state**

9 **~~-- employer compliance -- employer immunity -- penalties for noncompliance -- contest by obligor.~~** (1) An
10 income-withholding order issued in another state may be sent by or on behalf of the obligee or by the support
11 enforcement agency to the person ~~or entity~~ defined as the obligor's employer under the income-withholding laws
12 of this state without first filing a petition or comparable pleading or registering the order with a tribunal of this state.

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

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

17 (3) Except as otherwise provided ~~by in~~ subsections (4) and (5), the employer shall withhold ~~the funds~~
18 and distribute the funds as directed in the income-withholding order by complying with the terms of the order that
19 specify:

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

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

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

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

28 (e) the amount of periodic payments of ~~arrears~~ arrearages and interest on ~~arrears~~ arrearages, stated
29 as sums certain.

30 (4) An employer shall comply with the law of the state of the obligor's principal place of employment for

1 withholding from income with respect to:

2 (a) the employer's fee for processing an income-withholding order;

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

4 (c) the times within which the employer must implement the income-withholding order and forward the
5 child support payment.

6 (5) ~~An~~ If an obligor's employer ~~who~~ receives ~~multiple~~ two or more income-withholding orders with respect
7 to the earnings of the same obligor, the employer satisfies the terms of the ~~multiple~~ orders if the employer
8 complies with the law of the state of the obligor's principal place of employment to establish the priorities for
9 withholding and allocating income withheld for ~~multiple~~ two or more child support obligees.

10 (6) An employer ~~who~~ that complies with an income-withholding order issued in another state in
11 accordance with this section is not subject to civil liability to an individual or agency with regard to the employer's
12 withholding of child support from the obligor's income.

13 (7) An employer ~~who~~ that willfully fails to comply with an income-withholding order issued by in another
14 state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with
15 an order issued by a tribunal of this state.

16 (8) (a) An obligor may contest the validity or enforcement of an income-withholding order issued in
17 another state and received directly by an employer in this state by registering the order in a tribunal of this state
18 and filing a contest to that order as provided in 40-5-184 through 40-5-194 and [sections 4 and 5], or otherwise
19 contesting the order in the same manner as if the order had been issued by a tribunal of this state. ~~Choice of law~~
20 ~~under 40-5-187 applies to the contest.~~

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

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

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

24 (iii) the person ~~or agency~~ designated to receive payments in the income-withholding order or, if ~~a~~ no
25 person ~~or agency~~ is ~~not~~ designated, to the obligee."

26

27 **Section 33.** Section 40-5-158, MCA, is amended to read:

28 **"40-5-158. Proceedings under this part.** (1) Except as otherwise provided in this part, 40-5-158
29 through 40-5-166, 40-5-170 through 40-5-178, ~~40-5-180~~, and 40-5-183 apply to all proceedings under this part.

30 ~~—(2) This part provides for the following proceedings:~~

- 1 ~~— (a) establishment of an order for spousal support or child support pursuant to 40-5-179;~~
 2 ~~— (b) enforcement of a support order and income-withholding order of another state without registration;~~
 3 ~~— (c) registration of an order for spousal support or child support of another state for enforcement pursuant~~
 4 ~~to 40-5-184 through 40-5-195;~~
 5 ~~— (d) modification of an order for child support or spousal support issued by a tribunal of this state pursuant~~
 6 ~~to 40-5-147 through 40-5-150;~~
 7 ~~— (e) registration of an order for child support of another state for modification pursuant to 40-5-184 through~~
 8 ~~40-5-195;~~
 9 ~~— (f) determination of parentage pursuant to 40-5-196; and~~
 10 ~~— (g) assertion of jurisdiction over nonresidents pursuant to 40-5-145 and 40-5-146.~~

11 ~~(3)(2)~~ An individual petitioner or a support enforcement agency may ~~commence~~ initiate a proceeding
 12 authorized under this part by filing a petition in an ~~appropriate~~ initiating tribunal for forwarding to a responding
 13 tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state or a foreign country
 14 that has or can obtain personal jurisdiction over the respondent."
 15

16 **Section 34.** Section 40-5-159, MCA, is amended to read:

17 **"40-5-159. Action Proceeding by a minor parent.** A minor parent or ~~the~~ a guardian or other legal
 18 representative of a minor parent may maintain a proceeding on behalf of or for the benefit of the minor's child."
 19

20 **Section 35.** Section 40-5-160, MCA, is amended to read:

21 **"40-5-160. Application of law of this state.** Except as otherwise provided ~~by~~ in this part, a responding
 22 tribunal of this state shall:

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

26 (2) ~~shall~~ determine the duty of support and the amount payable in accordance with the law and support
 27 guidelines of this state."
 28

29 **Section 36.** Section 40-5-161, MCA, is amended to read:

30 **"40-5-161. Duties of initiating tribunal.** (1) Upon the filing of a petition authorized by this part, an

1 initiating tribunal of this state shall forward ~~three copies~~ of the petition and its accompanying documents:

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

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

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

12

13 **Section 37.** Section 40-5-162, MCA, is amended to read:

14 **"40-5-162. Duties and powers of responding tribunal.** (1) When a responding tribunal of this state
15 receives a petition or comparable pleading from an initiating tribunal or directly pursuant to 40-5-158~~(3)~~(2), it shall
16 cause the petition or pleading to be filed and notify the petitioner where and when it was filed.

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

19 (a) ~~issue~~ establish or enforce a support order, modify a child support order, determine the controlling
20 child support order, or ~~render a judgment to determine parentage~~ of a child;

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

22 (c) order income withholding;

23 (d) determine the amount of any arrearages and specify a method of payment;

24 (e) enforce orders by ~~use of~~ civil or criminal contempt, or both;

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

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

27 (h) order an obligor to keep the tribunal informed of the obligor's current residential address, electronic
28 mail address, telephone number, employer, address of employment, and telephone number at the place of
29 employment;

30 (i) issue a bench warrant for an obligor who has failed; after proper notice; to appear at a hearing ordered

1 by the tribunal and enter the bench warrant in any local and state computer systems for criminal warrants;

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

3 (k) award reasonable attorney fees and other fees and costs; and

4 (l) grant any other available remedy.

5 (3) A responding tribunal of this state shall include in a support order issued under this part or in the
6 documents accompanying the order the calculations on which the support order is based.

7 (4) A responding tribunal of this state may not condition the payment of a support order issued under
8 this part upon ~~a party's compliance~~ by a party with provisions for visitation ~~provisions~~.

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

11 (6) ~~The department of public health and human services is the responding tribunal for receipt of a petition~~
12 ~~or comparable proceedings from an initiating state as provided in 40-5-263. In all other cases, the district court~~
13 ~~is the responding tribunal. If requested to enforce a support order, arrears, or judgment or modify a support order~~
14 ~~stated in a foreign currency, a responding tribunal of this state shall convert the amount stated in the foreign~~
15 ~~currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly~~
16 ~~reported.~~"

17

18 **Section 38.** Section 40-5-163, MCA, is amended to read:

19 "**40-5-163. Inappropriate tribunal.** If a petition or comparable pleading is received by an inappropriate
20 tribunal of this state, it the tribunal shall forward the pleading and accompanying documents to an appropriate
21 tribunal ~~in~~ of this state or another state and notify the petitioner where and when the pleading was sent."

22

23 **Section 39.** Section 40-5-164, MCA, is amended to read:

24 "**40-5-164. Duties of support enforcement agency.** (1) A support enforcement agency of this state,
25 upon request, shall provide services to a petitioner in a proceeding under this part.

26 (2) A support enforcement agency that is providing services to the petitioner shall, ~~as appropriate:~~

27 (a) take all steps necessary to enable an appropriate tribunal ~~in~~ of this state, ~~or another state, or a foreign~~
28 ~~country~~ to obtain jurisdiction over the respondent;

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

30 (c) make a reasonable effort to obtain all relevant information, including information as to income and

1 property of the parties;

2 (d) within 2 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a ~~written~~ notice
3 in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the petitioner;

4 (e) within 2 days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a ~~written~~
5 communication in a record from the respondent or the respondent's attorney, send a copy of the communication
6 to the petitioner; and

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

8 (3) A support enforcement agency of this state that requests registration of a child support order in this
9 state for enforcement or for modification shall make reasonable efforts:

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

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

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

16 (5) A support enforcement agency of this state shall issue or request a tribunal of this state to issue a
17 child support order and an income withholding order that redirect payment of current support, arrears, and interest
18 if requested to do so by a support enforcement agency of another state pursuant to 40-5-178.

19 ~~(3)(6)~~ This part does not create or negate a relationship of attorney and client or other fiduciary
20 relationship between a support enforcement agency or the attorney for the agency and the individual being
21 assisted by the agency.

22 ~~(4) For purposes of this part, the department of public health and human services is the support~~
23 ~~enforcement agency for this state as provided in Title 40, chapter 5, parts 2, 4, and 6. All the provisions of this~~
24 ~~part must be interpreted as supplemental to and cumulative with the department's powers and duties under those~~
25 ~~provisions. In all other cases, the county attorney in the county in which an action must be filed is the support~~
26 ~~enforcement agency."~~

27

28 **Section 40.** Section 40-5-165, MCA, is amended to read:

29 **"40-5-165. Duties of state information agency.** (1) The department of public health and human
30 services is designated as the state information agency under this part.

1 (2) The ~~department~~ state information agency shall:

2 (a) compile and maintain a current list, including addresses, of the tribunals in this state that have
3 jurisdiction under this part and ~~of~~ any support enforcement agencies in this state and transmit a copy to the state
4 information agency of every other state;

5 (b) maintain a register of names and addresses of tribunals and support enforcement agencies ~~of~~
6 received from other states;

7 (c) forward to the appropriate tribunal in the place in this state in which the ~~individual~~ obligee who is an
8 individual or the obligor resides or in which the obligor's property is believed to be located all documents
9 concerning a proceeding under this part received from ~~an initiating tribunal or the state information agency of the~~
10 ~~initiating state~~ another state or foreign country; and

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

16

17 **Section 41.** Section 40-5-166, MCA, is amended to read:

18 **"40-5-166. Duty of attorney general.** (1) If the attorney general determines that a support enforcement
19 agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency
20 to perform its duties under this part or may provide those services directly to the individual.

21 (2) The attorney general may determine that a foreign country has established a reciprocal arrangement
22 for child support with this state and take appropriate action for notification of the determination."

23

24 **Section 42.** Section 40-5-171, MCA, is amended to read:

25 **"40-5-171. Pleadings and accompanying documents.** (1) ~~A~~ In a proceeding under this part, a
26 ~~petitioner who seeks~~ seeking to establish ~~or a support order, to determine parentage of a child, or to register and~~
27 ~~modify a support order or to determine parentage in a proceeding under this part shall verify the~~ of a tribunal of
28 another state or a foreign country must file a petition. Unless otherwise ordered under 40-5-172, the petition or
29 accompanying documents must provide, so far as known, the name, residential address, and social security
30 numbers of the obligor and the obligee or the parent and alleged parent and the name, sex, residential address,

1 social security number, and date of birth of each child for ~~whom~~ whose benefit support is sought or whose
 2 parentage is to be determined. ~~The~~ Unless filed at the time of registration, the petition must be accompanied by
 3 a ~~certified~~ copy of any support order ~~in effect~~ known to have been issued by another tribunal. The petition may
 4 include any other information that may assist in locating or identifying the respondent.

5 (2) The petition must specify the relief sought. The petition and accompanying documents must conform
 6 substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a
 7 support enforcement agency."
 8

9 **Section 43.** Section 40-5-172, MCA, is amended to read:

10 "**40-5-172. Nondisclosure of information in exceptional circumstances.** ~~Upon a finding, which may~~
 11 ~~be made ex parte,~~ If a party alleges in an affidavit or pleading under oath that the health, safety, or liberty of a
 12 party or child would be unreasonably put at risk jeopardized by the disclosure of specific identifying information
 13 or if an existing order so provides, a, that information must be sealed and may not be disclosed to the other party
 14 or the public. After a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party
 15 or child, the tribunal shall may order that the address of the child or party or other identifying information not be
 16 disclosed in a pleading or other document filed in a proceeding under this part disclosure of information that the
 17 tribunal determines to be in the interest of justice."
 18

19 **Section 44.** Section 40-5-173, MCA, is amended to read:

20 "**40-5-173. Costs and fees.** (1) The petitioner may not be required to pay a filing fee or other costs ~~to~~
 21 ~~initiate a proceeding under this part.~~

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

29 (3) The tribunal shall order the payment of costs and reasonable attorney fees if it determines that a
 30 hearing was requested primarily for delay. In a proceeding under 40-5-184 through 40-5-195 and [sections 4 and

1 5], a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed
 2 or enforced without change."
 3

4 **Section 45.** Section 40-5-174, MCA, is amended to read:

5 **"40-5-174. Nonparentage as defense -- limitation.** A party whose parentage of a child has been
 6 previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under
 7 this part."
 8

9 **Section 46.** Section 40-5-175, MCA, is amended to read:

10 **"40-5-175. Special rules of evidence and procedure.** (1) The physical presence of ~~the petitioner in~~
 11 ~~a responding~~ a nonresident party who is an individual in a tribunal of this state is not required for the
 12 establishment, enforcement, or modification of a support order or ~~for~~ the rendition of a judgment determining
 13 parentage of a child.

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

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

21 (4) Copies of bills for testing for parentage of a child and for prenatal and postnatal health care of the
 22 mother and child, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove
 23 the amount of the charges billed and that the charges were reasonable, necessary, and customary.

24 (5) Documentary evidence transmitted from ~~another~~ outside this state to a tribunal of this state by
 25 telephone, telecopier, or other electronic means that do not provide an original writing record may not be excluded
 26 from evidence on an objection based on the means of transmission.

27 (6) In a proceeding under this part, a tribunal of this state ~~may~~ shall permit a party or witness residing
 28 ~~in another~~ outside this state to be deposed or to testify under penalty of perjury by telephone, audiovisual means,
 29 or other electronic means at a designated tribunal or other location ~~in that state~~. A tribunal of this state shall
 30 cooperate with other tribunals ~~of other states~~ in designating an appropriate location for the deposition or

1 testimony.

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

4 (8) A privilege against disclosure of communications between spouses does not apply in a proceeding
5 under this part.

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

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

10

11 **Section 47.** Section 40-5-176, MCA, is amended to read:

12 **"40-5-176. Communications between tribunals.** A tribunal of this state may communicate, ~~in writing~~
13 ~~or by telephone or other means,~~ with a tribunal of another outside this state in a record or by telephone, electronic
14 mail, or other means to obtain information concerning the laws ~~of that state,~~ the legal effect of a judgment,
15 decree, or order of that tribunal, ~~and the status of a proceeding in the other state.~~ A tribunal of this state may
16 furnish similar information by similar means to a tribunal ~~of another~~ outside this state."

17

18 **Section 48.** Section 40-5-177, MCA, is amended to read:

19 **"40-5-177. Assistance with discovery.** A tribunal of this state may:

20 (1) request a tribunal ~~of another~~ outside this state to assist in obtaining discovery; and

21 (2) upon request, compel a person over ~~whom~~ which it has jurisdiction to respond to a discovery order
22 issued by a tribunal ~~of another~~ outside this state."

23

24 **Section 49.** Section 40-5-178, MCA, is amended to read:

25 **"40-5-178. Receipt and disbursement of payments.** (1) A support enforcement agency or tribunal
26 of this state shall disburse promptly any amounts received pursuant to a support order, ~~as directed under this part~~
27 by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state or a foreign
28 country a certified statement by the custodian of the record of the amounts and dates of all payments received.

29 (2) If neither the obligor nor the obligee who is an individual nor the child resides in this state, upon
30 request from the support enforcement agency of this state or another state, the support enforcement agency of

1 this state or a tribunal of this state shall:

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

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

6 (3) The support enforcement agency of this state receiving redirected payments from another state
7 pursuant to a law similar to subsection (2) shall furnish to a requesting party or tribunal of the other state a
8 certified statement by the custodian of the record of the amount and dates of all payments received."

9

10 **Section 50.** Section 40-5-179, MCA, is amended to read:

11 **"40-5-179. ~~Petition to establish~~ Establishment of support order.** (1) If a support order entitled to
12 recognition under this part has not been issued, ~~an appropriate~~ a responding tribunal of this state with personal
13 jurisdiction over the parties may issue a support order if:

14 (a) the individual seeking the order resides ~~in another~~ outside this state; or

15 (b) the support enforcement agency seeking the order is located ~~in another~~ outside this state.

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

18 (a) ~~the respondent has signed a verified statement acknowledging parentage~~ the presumed father of the
19 child;

20 (b) ~~the respondent has been determined by or pursuant to law to be the parent~~ petitioning to have his
21 paternity adjudicated; or

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

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

24 (e)(e) ~~there is other~~ shown by clear and convincing evidence ~~that the respondent is the child's parent~~
25 to be the father of the child;

26 (f) an acknowledged father as provided by applicable state law;

27 (g) the mother of the child; or

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

30 (3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the

1 tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to 40-5-162."

2

3 **Section 51.** Section 40-5-180, MCA, is amended to read:

4 **"40-5-180. Administrative enforcement of orders.** (1) A party or support enforcement agency seeking
5 to enforce a support order or an income-withholding order, or both, issued ~~by a tribunal of in~~ in another state or a
6 foreign support order may send the documents required for registering the order to a support enforcement agency
7 of this state.

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

13

14 **Section 52.** Section 40-5-181, MCA, is amended to read:

15 **"40-5-181. Credit for payments.** ~~An amount~~ A tribunal of this state shall credit amounts collected and
16 ~~credited~~ for a particular period pursuant to ~~a~~ any child support order ~~issued by a tribunal of another state must~~
17 ~~be credited~~ against the ~~amount accruing or accrued~~ amounts owed for the same period under ~~a~~ any other child
18 support order for support of the same child ~~issued for the same obligation~~ by a tribunal of this state, another state,
19 or a foreign country."

20

21 **Section 53.** Section 40-5-183, MCA, is amended to read:

22 **"40-5-183. Limited immunity of petitioner.** (1) Participation by a petitioner in a proceeding under this
23 part before a responding tribunal, whether in person, by private attorney, or through services provided by ~~a~~ the
24 support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

25 (2) A petitioner is not amenable to service of civil process while physically present in this state to
26 participate in a proceeding under this part.

27 (3) The immunity granted by this section does not extend to civil litigation based on acts ~~that are~~
28 unrelated to a proceeding under this part ~~and that are~~ committed by a party while physically present in this state
29 to participate in the proceeding."

30

1 **Section 54.** Section 40-5-184, MCA, is amended to read:

2 "**40-5-184. Registration of order for enforcement.** A support order or an income-withholding order
3 issued by a tribunal of in another state or a foreign support order may be registered in this state for enforcement."

4

5 **Section 55.** Section 40-5-185, MCA, is amended to read:

6 "**40-5-185. Procedure to register order for enforcement.** (1) ~~A~~ Except as otherwise provided in
7 [section 11], a support order or income-withholding order of another state or a foreign support order may be
8 registered in this state by sending the following records documents and information to the department of public
9 health and human services pursuant to 40-5-263 or to the district court:

10 (a) a letter of transmittal to the tribunal ~~to request~~ requesting registration and enforcement;

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

13 (c) a sworn statement by the ~~party seeking~~ person requesting registration or a certified statement by the
14 custodian of the records, showing the amount of any ~~arrears~~ arrearage;

15 (d) the name of the obligor and, if known:

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

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

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

19 and

20 (e) except as otherwise provided in 40-5-172, the name and address of the obligee and, if applicable,
21 the ~~agency or~~ person to whom support payments are to be remitted.

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

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

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

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

- 1 **(b) specify the order alleged to be the controlling order, if any; and**
 2 **(c) specify the amount of consolidated arrears, if any.**
 3 **(5) A request for a determination of which is the controlling order may be filed separately or with a**
 4 **request for registration and enforcement or for registration and modification. The person requesting registration**
 5 **shall give notice of the request to each party whose rights may be affected by the determination.**"

6
 7 **Section 56.** Section 40-5-186, MCA, is amended to read:

8 **"40-5-186. Effect of registration for enforcement.** (1) A support order or income-withholding order
 9 issued in another state or a foreign support order is registered when the order is filed in ~~a~~ the registering tribunal
 10 of this state.

11 (2) A registered support order issued in another state or a foreign country is enforceable in the same
 12 manner and is subject to the same procedures as an order issued by a tribunal of this state.

13 (3) Except as otherwise provided in ~~40-5-184 through 40-5-195~~ this part, a tribunal of this state shall
 14 recognize and enforce, but may not modify, a registered support order if the issuing tribunal had jurisdiction."

15
 16 **Section 57.** Section 40-5-187, MCA, is amended to read:

17 **"40-5-187. Choice of law.** (1) ~~The~~ Except as otherwise provided in subsection (4), the law of the issuing
 18 state or foreign country governs:

19 (a) the nature, extent, amount, and duration of current payments and other obligations of support and
 20 the payment of arrearages under the a registered support order;

21 (b) the computation and payment of arrearages and accrual of interest on the arrearages under the
 22 support order; and

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

24 (2) In a proceeding for ~~arrearages~~ arrears under a registered support order, the statute of limitations
 25 ~~under the laws~~ of this state or of, or of the issuing state, or foreign country, whichever is longer, applies.

26 (3) A responding tribunal of this state shall apply the procedures and remedies of this state to enforce
 27 current support and collect arrears and interest due on a support order of another state or a foreign country
 28 registered in this state.

29 (4) After a tribunal of this state or another state determines which is the controlling order and issues an
 30 order consolidating arrears, if any, a tribunal of this state shall prospectively apply the law of the state or foreign

1 country issuing the controlling order, including its law on interest on arrears, on current and future support, and
 2 on consolidated arrears."

3

4 **Section 58.** Section 40-5-188, MCA, is amended to read:

5 **"40-5-188. Notice of registration of order.** (1) When a support order or income-withholding order
 6 issued in another state or a foreign support order is registered, the registering tribunal of this state shall notify the
 7 nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and
 8 relevant information accompanying the order.

9 (2) The notice must inform the nonregistering party:

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

12 (b) that a hearing to contest the validity or enforcement of the registered order must be requested within
 13 20 days after ~~the date of mailing or personal service of the notice~~ unless the registered order is under [section
 14 12];

15 (c) that failure to contest the validity or enforcement of the registered order in a timely manner:

16 ~~—(i) will result in confirmation of the order and enforcement of the order and the alleged arrearages; and~~

17 ~~(ii) precludes further contest of that order with respect to any matter that could have been asserted; and~~

18 (d) of the amount of any alleged arrearages.

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

20 (a) identify the two or more orders and the order alleged by the registering party to be the controlling
 21 order and the consolidated arrears, if any;

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

23 (c) state that the procedures provided in subsection (2) apply to the determination of which is the
 24 controlling order; and

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

27 ~~(3)(4)~~ Upon registration of an income-withholding order for enforcement, the support enforcement agency
 28 or the registering tribunal shall notify the obligor's employer pursuant to the income-withholding laws of this state."

29

30 **Section 59.** Section 40-5-189, MCA, is amended to read:

1 **"40-5-189. Procedure to contest validity or enforcement of registered support order.** (1) A
 2 nonregistering party seeking to contest the validity or enforcement of a registered support order in this state shall
 3 request a hearing within ~~20 days after the date of mailing or personal service of notice of the registration~~ the time
 4 required by 40-5-188. A court hearing may be conducted by teleconferencing methods. A ~~department~~ support
 5 enforcement agency hearing must initially be conducted by teleconferencing methods and is subject to the
 6 Montana Administrative Procedure Act. The nonregistering party may, ~~pursuant to 40-5-190~~, seek to vacate the
 7 registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the
 8 remedies being sought or the amount of any alleged arrearages pursuant to 40-5-190.

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

11 (3) If a nonregistering party requests a hearing to contest the validity or enforcement of the registered
 12 support order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the
 13 date, time, and place of the hearing."
 14

15 **Section 60.** Section 40-5-190, MCA, is amended to read:

16 **"40-5-190. Contest of registration or enforcement.** (1) A party contesting the validity or enforcement
 17 of a registered support order or seeking to vacate the registration has the burden of proving one or more of the
 18 following defenses:

- 19 (a) the issuing tribunal lacked personal jurisdiction over the contesting party;
 20 (b) the order was obtained by fraud;
 21 (c) the order has been vacated, suspended, or modified by a later order;
 22 (d) the issuing tribunal has stayed the order pending appeal;
 23 (e) there is a defense under the law of this state to the remedy sought;
 24 (f) full or partial payment has been made; ~~or~~
 25 (g) the statute of limitations under 40-5-187 precludes enforcement of some or all of the alleged
 26 arrearages; or
 27 (h) the alleged controlling order is not the controlling order.

28 (2) If a party presents evidence establishing a full or partial defense under subsection (1), ~~the registering~~
 29 a tribunal may stay enforcement of ~~the a~~ registered support order, continue the proceeding to permit production
 30 of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered

1 support order may be enforced by all remedies available under the law of this state.

2 (3) If the contesting party does not establish a defense under subsection (1) to the validity or
3 enforcement of ~~the~~ a registered support order, the registering tribunal shall issue an order confirming the order."

4

5 **Section 61.** Section 40-5-191, MCA, is amended to read:

6 "**40-5-191. Confirmed order.** Confirmation of a registered support order, whether by operation of law
7 or after notice and hearing, precludes further contest of the order with respect to any matter that could have been
8 asserted at the time of registration."

9

10 **Section 62.** Section 40-5-192, MCA, is amended to read:

11 "**40-5-192. Procedure to register child support order of another state for modification.** A party or
12 support enforcement agency seeking to modify or to modify and enforce a child support order issued in another
13 state shall register that order in this state in the same manner provided in 40-5-184 through ~~40-5-186~~, 40-5-191
14 ~~40-5-188~~, and 40-5-271 if the order has not been registered. A petition for modification may be filed ~~either~~ at the
15 same time as a request for registration or later. The pleading must specify the grounds for modification."

16

17 **Section 63.** Section 40-5-193, MCA, is amended to read:

18 "**40-5-193. Effect of registration for modification.** A tribunal of this state may enforce a child support
19 order of another state, registered for purposes of modification, in the same manner as if the order had been
20 issued by a tribunal of this state. ~~However,~~ but the registered support order may be modified only if the
21 requirements of 40-5-194 have been met."

22

23 **Section 64.** Section 40-5-194, MCA, is amended to read:

24 "**40-5-194. Modification of child support order of another state -- jurisdiction to modify child**
25 **support order of another state when individual parties reside in this state -- notice to issuing jurisdiction.**

26 (1) ~~After a child support order issued in another state has been registered in this state, the responding~~ If
27 subsection (7) does not apply, upon petition a tribunal of this state may modify ~~that a child support order that is~~
28 issued in another state and that is registered in this state only if subsection (5) does not apply, and after notice
29 and hearing, ~~if the tribunal~~ finds that:

30 (a) the following requirements are met:

1 (i) ~~neither the child; nor the individual obligee who is an individual; and nor the obligor do not reside~~
 2 resides in the issuing state;

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

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

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

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

15 (3) A tribunal of this state may not modify any aspect of a child support order that may not be modified
 16 under the laws of the issuing state, including the duration of the obligation of support. If two or more tribunals have
 17 issued child support orders for the same obligor and same child, the order that controls and must be recognized
 18 under 40-5-151 establishes the aspects of the support order that are nonmodifiable.

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

23 ~~(4)(5)~~ On the issuance of an order by a tribunal of this state modifying a child support order issued in
 24 another state, ~~a~~ the tribunal of this state ~~has~~ becomes the tribunal having continuing, exclusive jurisdiction.

25 (6) Notwithstanding 40-5-145(2) and subsections (1) through (5) of this section, a tribunal of this state
 26 retains jurisdiction to modify an order issued by a tribunal of this state if:

27 (a) one party resides in another state; and

28 (b) the other party resides outside the United States.

29 ~~(5)(7)~~ (a) If all of the parties who are individuals reside in this state and the child does not reside in the
 30 issuing state, a tribunal of this state has jurisdiction to enforce and modify the issuing state's child support order

1 in a proceeding to register that order.

2 (b) A tribunal of this state exercising jurisdiction under ~~subsection (5)(a)~~ this subsection (7) shall apply
3 the provisions of 40-5-101, 40-5-103, 40-5-143 through 40-5-152, 40-5-181, and 40-5-184 through 40-5-195,
4 [sections 1 through 5], and the procedural and substantive law of this state to the proceeding for enforcement or
5 modification proceeding. The remaining sections of this part Sections 40-5-153, 40-5-154, 40-5-158 through
6 40-5-180, 40-5-183, 40-5-196, and [sections 6 through 13] do not apply.

7 ~~(6)(8)~~ Within 30 days after issuance of a modified child support order, the party obtaining the modification
8 shall file a certified copy of the order:

9 ~~(a)~~ with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order; and

10 ~~(b)~~ in each tribunal in which the party knows that the earlier order has been registered.

11 ~~(7)(9)~~ A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions
12 by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or
13 enforceability of the modified order of the new tribunal of continuing, exclusive jurisdiction."
14

15 **Section 65.** Section 40-5-195, MCA, is amended to read:

16 "**40-5-195. Recognition of order modified in another state.** ~~A tribunal of this state shall recognize a~~
17 ~~modification of its earlier child support order by a tribunal of another~~ If a child support order issued by a tribunal
18 of this state is modified by a tribunal of another state that assumed jurisdiction pursuant to this part or a law
19 substantially similar to this part. Except as otherwise provided in this part, the the Uniform Interstate Family
20 Support Act, a tribunal of this state shall, upon request:

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

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

24 ~~(3)(2) may provide other appropriate relief only for violations of the its order that occurred before the~~
25 effective date of the modification; and

26 ~~(4)(3) shall recognize the modifying order of the other state, upon registration, for the purpose of~~
27 enforcement."
28

29 **Section 66.** Section 40-5-196, MCA, is amended to read:

30 "**40-5-196. Proceeding to determine parentage.** ~~(1)~~ A tribunal of this state authorized to determine

1 parentage of a child may serve as an initiating or a responding tribunal in a proceeding brought under this part
 2 or a law or procedure substantially similar to this part, the Uniform Reciprocal Enforcement of Support Act, the
 3 Revised Uniform Reciprocal Enforcement of Support Act, or a law or procedure substantially similar to either of
 4 those acts to determine whether the petitioner is a parent of a particular child or to determine whether a
 5 respondent is a parent of that child this part.

6 (2) ~~In a proceeding to determine parentage, a responding tribunal of this state shall apply the rules of~~
 7 ~~this state on choice of law.~~

8 ~~—— (3) A proceeding to determine parentage directed to:~~

9 ~~—— (a) the department of public health and human services from an initiating state pursuant to 40-5-263 and~~
 10 ~~this part is subject to the provisions of 40-5-231 through 40-5-237 or Title 40, chapter 6, part 1, as applicable; and~~

11 ~~—— (b) a district court from an initiating state is subject to the provisions of Title 40, chapter 6, part 1."~~

12

13 **Section 67.** Section 40-5-197, MCA, is amended to read:

14 "**40-5-197. Uniformity of interpretation application and construction.** ~~This part must be so construed~~
 15 ~~as to effectuate its general purpose to make uniform~~ In applying and construing this uniform act, consideration
 16 must be given to the need to promote uniformity of the law with respect to the its subject of this part matter among
 17 states enacting that enact it."

18

19 **Section 68.** Section 40-5-272, MCA, is amended to read:

20 "**40-5-272. Application for review of child support orders.** (1) Upon the application of the department,
 21 the obligor, or the obligee, a support order issued by a district court of this state, ~~or~~ by a court or administrative
 22 agency of another state, tribe, or foreign country, or a previously issued administrative support order of this state
 23 may be reviewed by the department to determine whether the support order should be modified in accordance
 24 with the guidelines.

25 (2) Jurisdiction to conduct the review and to issue a modifying order under 40-5-273, 40-5-277, and
 26 40-5-278 is authorized when:

27 (a) the obligor and the obligee reside in this state; or

28 (b) jurisdiction can be obtained as provided under 40-5-231.

29 (3) Jurisdiction to review a child support order under this section does not confer jurisdiction for any other
 30 purpose, such as custody or visitation disputes.

- 1 (4) Criteria constituting sufficient grounds for review of a child support order include:
- 2 (a) a substantial change in circumstances as defined by administrative rules;
- 3 (b) the need to provide for the child's health care needs, regardless of the availability of health insurance
- 4 coverage through employment or other group insurance;
- 5 (c) a lapse of 36 months from the date that:
- 6 (i) the order was entered;
- 7 (ii) an administrative hearing was granted under 40-5-277; or
- 8 (iii) an administrative order was issued denying a modification because of the applicant's failure to meet
- 9 one of the criteria described in this subsection (4); or
- 10 (d) a change in custody of the child.
- 11 (5) A party may withdraw the party's request for modification prior to the issuance of the notice described
- 12 in 40-5-273. After the issuance of the notice, if a party withdraws a request for modification, the nonrequesting
- 13 party may continue the modification action by filing with the department a written request to continue.
- 14 (6) The department shall make available procedures and forms that allow the obligor or the obligee to
- 15 complete the review process without legal counsel.
- 16 (7) To the extent that they are consistent with this section, the provisions of 40-5-145, 40-5-149, and
- 17 40-5-150 apply to this section."

18

19 **Section 69.** Section 40-5-923, MCA, is amended to read:

20 **"40-5-923. Information and records -- disclosure.** Information in the case registry and payment

21 processing unit that contains the social security number, residential address, income sources, and employers of

22 an obligee or obligor [and the employee W-4 forms or similar forms transmitted to the department] is private and

23 confidential and may be disclosed only ~~to~~:

- 24 (1) to courts, tribunals, and administrative agencies in this and any agency of another state or an Indian
- 25 tribe having jurisdiction over child support, custody, visitation, and welfare pursuant to 42 U.S.C. 651, et seq.;
- 26 (2) to public assistance and medicaid agencies and the revenue, workers' compensation, and
- 27 employment security programs of this or any other state for the purpose of determining eligibility, continued
- 28 eligibility, or fraud by programs operated by those agencies and programs;
- 29 (3) to the obligor or obligee who is the subject of the information;
- 30 (4) to the state vital statistics agency for the purposes of 50-15-302; ~~and~~

1 (5) to the department of revenue;

2 (6) for any other use permitted or required by the federal Social Security Act. (Bracketed language
3 terminates on occurrence of contingency--sec. 1, Ch. 27, L. 1999.)"

4

5 **NEW SECTION. Section 70. Transition.** [This act] applies to proceedings begun on or after July 1,
6 2015, to establish a support order or determine parentage of a child or to register, recognize, enforce, or modify
7 a prior support order, determination, or agreement, whenever issued or entered.

8

9 **NEW SECTION. Section 71. Codification instruction -- directions to code commissioner.** [Sections
10 1 through 18] are intended to be codified as an integral part of Title 40, chapter 5, and the provisions of Title 40,
11 chapter 5, apply to [sections 1 through 18].

12 (2) [Sections 1 through 18] and all sections of Title 40, chapter 5, part 1, are intended to be codified
13 together as a new part in Title 40, chapter 5.

14 (3) The code commissioner is instructed to change internal references with and to [sections 1 through
15 18] and the numbered sections, including sections enacted or amended by the 64th legislature, to reflect the new
16 section numbers assigned to sections pursuant to this section.

17

18 **NEW SECTION. Section 72. Severability.** If a part of [this act] is invalid, all valid parts that are
19 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
20 the part remains in effect in all valid applications that are severable from the invalid applications.

21

22 **NEW SECTION. Section 73. Effective date.** [This act] is effective July 1, 2015.

23

- END -