

UIFSA Excerpts - Responding International Cases

SECTION 102. DEFINITIONS. In this act:

...

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

(A) which has been declared under the law of the United States to be a foreign reciprocating country;

(B) which has established a reciprocal arrangement for child support with this state as provided in Section 308;

(C) which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this [act]; or

(D) in which the Convention is in force with respect to the United States.

(6) "Foreign support order" means a support order of a foreign tribunal.

(7) "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the Convention.

...

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

SECTION 210. APPLICATION OF ACT TO NONRESIDENT SUBJECT TO PERSONAL JURISDICTION. A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this [act, under other law of this state relating to a support order, or recognizing a foreign support order may receive evidence from outside this state pursuant to Section 316, communicate with a tribunal outside this state pursuant to Section 317, and obtain discovery through a tribunal outside this state pursuant to Section 318. In all other respects, Article 3 through 6 do not apply, and the tribunal shall apply the procedural and substantive law of this state.

SECTION 303. APPLICATION OF LAW OF STATE.

Except as otherwise provided in this act, a responding tribunal of this state shall:

(1) apply the procedural and substantive law generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

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

SECTION 316. SPECIAL RULES OF EVIDENCE AND PROCEDURE.

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

(b) An affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this state.

...

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

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

SECTION 317. COMMUNICATIONS BETWEEN TRIBUNALS. A tribunal of this state may communicate with a tribunal outside this state in a record or by telephone, electronic mail, or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding. A tribunal of this state may furnish similar information by similar means to a tribunal outside this state.

SECTION 318. ASSISTANCE WITH DISCOVERY. A tribunal of this state may:

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

SECTION 401. ESTABLISHMENT OF SUPPORT ORDER.

(a) If a support order entitled to recognition under this act has not been issued, a responding tribunal of this state with personal jurisdiction over the parties may issue a support order if:

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

SECTION 607. CONTEST OF REGISTRATION OR ENFORCEMENT.

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

- (1) the issuing tribunal lacked personal jurisdiction over the contesting party;
- (2) the order was obtained by fraud;
- (3) the order has been vacated, suspended, or modified by a later order;
- (4) the issuing tribunal has stayed the order pending appeal;
- (5) there is a defense under the law of this state to the remedy sought;
- (6) full or partial payment has been made;
- (7) the statute of limitation under Section 604 precludes enforcement of some or all of the alleged arrearage; or
- (8) the alleged controlling order is not the controlling order.

SECTION 611. MODIFICATION OF CHILD-SUPPORT ORDER OF ANOTHER STATE.

...

(f) Notwithstanding subsections (a) through (e) and Section 201(b), a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:

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

SECTION 615. JURISDICTION TO MODIFY CHILD-SUPPORT ORDER OF FOREIGN COUNTRY.

- (a) Except as otherwise provided in Section 711, 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 Section 611 has been given or whether the individual seeking modification is a resident of this state or of the foreign country.
- (b) An order issued by a tribunal of this state modifying a foreign child-support order pursuant to this section is the controlling order.

SECTION 707. CONTEST OF REGISTERED CONVENTION SUPPORT ORDER.

- (a) Except as otherwise provided in this [article], Sections 605 through 608 apply to a contest of a registered Convention support order.
- (b) A party contesting a registered Convention support order shall file a contest not later than 30 days after notice of the registration, but if the contesting party does not reside in the United States, the contest must be filed not later than 60 days after notice of the registration.
- (c) If the nonregistering party fails to contest the registered Convention support order by the time specified in subsection (b), the order is enforceable.
- (d) A contest of a registered Convention support order may be based only on grounds set forth in Section 708. The contesting party bears the burden of proof.
- (e) In a contest of a registered Convention support order, a tribunal of this state:
 - (1) is bound by the findings of fact on which the foreign tribunal based its jurisdiction;and
 - (2) may not review the merits of the order.
- (f) A tribunal of this state deciding a contest of a registered Convention support order shall promptly notify the parties of its decision.
- (g) A challenge or appeal, if any, does not stay the enforcement of a Convention support order unless there are exceptional circumstances.

SECTION 708. RECOGNITION AND ENFORCEMENT OF REGISTERED CONVENTION SUPPORT ORDER.

- (a) Except as otherwise provided in subsection (b), a tribunal of this state shall recognize and enforce a registered Convention support order.
- (b) The following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered Convention support order:
 - (1) recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;
 - (2) the issuing tribunal lacked personal jurisdiction consistent with Section 201;
 - (3) the order is not enforceable in the issuing country;
 - (4) the order was obtained by fraud in connection with a matter of procedure;
 - (5) a record transmitted in accordance with Section 706 lacks authenticity or integrity;
 - (6) a proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;
 - (7) the order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and

enforcement under this [act] in this state;

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

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

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

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

(10) the order was made in violation of Section 711.

(c) If a tribunal of this state does not recognize a Convention support order under subsection (b)(2), (4), or (9):

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

(2) the [governmental entity] shall take all appropriate measures to request a child-support order for the obligee if the application for recognition and enforcement was received under Section 704.

SECTION 711. MODIFICATION OF CONVENTION CHILD-SUPPORT ORDER.

(a) A tribunal of this state may not modify a Convention child-support order if the obligee remains a resident of the foreign country where the support order was issued unless:

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

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

(b) If a tribunal of this state does not modify a Convention child-support order because the order is not recognized in this state, Section 708(c) applies.