

HOUSE BILL NO. 228

INTRODUCED BY TOOLE, LARSON, FAGG

IN THE HOUSE

JANUARY 19, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
FEBRUARY 18, 1993	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
FEBRUARY 19, 1993	PRINTING REPORT.
	SECOND READING, DO PASS.
FEBRUARY 20, 1993	ENGROSSING REPORT.
FEBRUARY 22, 1993	THIRD READING, PASSED. AYES, 94; NOES, 4.
FEBRUARY 23, 1993	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 1, 1993	INTRODUCED AND REFERRED TO COMMITTEE ON JUDICIARY.
	FIRST READING.
MARCH 27, 1993	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 30, 1993	SECOND READING, CONCURRED IN.
MARCH 31, 1993	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

APRIL 1, 1993	RECEIVED FROM SENATE.
	SENT TO ENROLLING.
	REPORTED CORRECTLY ENROLLED.

1 House BILL NO. 228  
 2 INTRODUCED BY Brink Fort-Lassen Jags  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REPLACING THE REVISED  
 5 UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT WITH THE  
 6 UNIFORM INTERSTATE FAMILY SUPPORT ACT; CLARIFYING THAT ONLY  
 7 ONE STATE HAS JURISDICTION TO MODIFY A SUPPORT AWARD AT ANY  
 8 TIME; REVISING PRINCIPLES OF INTERSTATE JURISDICTION AND  
 9 CLARIFYING THE JURISDICTION OF THE HOME STATE OF A CHILD;  
 10 EXTENDING CHILD SUPPORT ENFORCEMENT PROVISIONS TO SPOUSAL  
 11 SUPPORT; AMENDING SECTIONS 40-5-101, 40-5-103, 40-5-104,  
 12 40-5-106, 40-5-107, 40-5-115, 40-5-118, 40-5-119, 40-5-133,  
 13 40-5-137, 40-5-140, 40-5-141, 40-5-142, 40-5-272, AND  
 14 40-5-431, MCA; AND REPEALING SECTIONS 40-5-102, 40-5-105,  
 15 40-5-108, 40-5-109, 40-5-110, 40-5-111, 40-5-112, 40-5-113,  
 16 40-5-114, 40-5-116, 40-5-117, 40-5-120, 40-5-121, 40-5-122,  
 17 40-5-123, 40-5-124, 40-5-125, 40-5-126, 40-5-127, 40-5-128,  
 18 40-5-129, 40-5-130, 40-5-131, 40-5-132, 40-5-134, 40-5-135,  
 19 40-5-136, 40-5-138, AND 40-5-139, MCA."

20  
 21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

22 **Section 1.** Section 40-5-101, MCA, is amended to read:

23 "40-5-101. Short title. This part may be cited as the  
 24 "Revised Uniform Reciprocal-Enforcement-of Interstate Family  
 25 Support Act {1968}."."

1 **Section 2.** Section 40-5-103, MCA, is amended to read:

2 "40-5-103. Definitions. (1) "Court" means the--district  
 3 court--of--this--state-and, when the context requires, means  
 4 the court of any other state as defined in--a--substantially  
 5 similar-reciprocal-law. "Child" means an individual, whether  
 6 over or under the age of majority, who is or is alleged to  
 7 be owed a duty of support by the individual's parent or who  
 8 is or is alleged to be the beneficiary of a child support  
 9 order directed to the parent.

10 (2) "Child support order" means a support order for a  
 11 child, including a child who has attained the age of  
 12 majority under the law of the issuing state.

13 {2}{3} "Duty of support":

14 (a) means an obligation a--duty--of--support--whether  
 15 imposed or imposable by law or-by-order,--decree,--or-judgment  
 16 of--any--court,--whether--interlocutory-or-final,--or-whether  
 17 incidental-to-an-action-for--divorce,--separation,--separate  
 18 maintenance,--or--otherwise--and--includes--the--duty-to-pay  
 19 arrearages-of-support-past-due-and-unpaid to provide support  
 20 for a child, spouse, or former spouse; and

21 (b) includes an unsatisfied obligation to provide  
 22 support.

23 {3}{4} "Governor" includes any--person an individual  
 24 performing the functions of governor or the executive  
 25 authority of any state covered by this part.

1       (5) "Home state" means the state in which a child lived  
 2       with a parent or a person acting as parent for at least 6  
 3       consecutive months immediately preceding the time of filing  
 4       of a petition or comparable pleading for support and, if a  
 5       child is less than 6 months old, the state in which the  
 6       child lived from birth with a parent or person acting as  
 7       parent. A period of temporary absence of a parent or person  
 8       acting as parent is counted as part of the 6-month or other  
 9       period.

10       (6) "Income" includes:

11       (a) earnings or other periodic entitlements to money  
 12       from any source; and

13       (b) any other property subject to withholding for  
 14       support under the law of this state.

15       (7) "Income-withholding order" means an order or other  
 16       legal process directed to an obligor's employer, as provided  
 17       in Title 40, chapter 5, parts 3 and 4, or by a tribunal of  
 18       another state to withhold support from the income of the  
 19       obligor.

20       (4)(8) "Initiating state" means a state in which a  
 21       proceeding pursuant to this part, an interstate referral  
 22       pursuant to title IV-D of the Social Security Act, or a law  
 23       substantially similar reciprocal-law-is-commenced to this  
 24       part, the Uniform Reciprocal Enforcement of Support Act, or  
 25       the Revised Uniform Reciprocal Enforcement of Support Act is

1       filed for forwarding to a responding state.

2       (9) "Initiating court tribunal" means the court--in  
 3       which--a--proceeding--is-commenced authorized tribunal in an  
 4       initiating state.

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

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

10       (5)(12) "Law" includes both--common decisional and  
 11       statutory law and rules and regulations having the force of  
 12       law.

13       (6)(13) "Obligee" means:

14       (a) a---person---including---a---state---or---political  
 15       subdivision, an individual to whom a duty of support is or  
 16       is alleged to be owed or in whose favor a support order has  
 17       been issued or a judgment determining parentage has been  
 18       rendered;

19       (b) a person---including---a state or political  
 20       subdivision,--that-has-commenced-a-proceeding-for-enforcement  
 21       of-an-alleged to which the rights under a duty of support or  
 22       for-registration-of a support order have been assigned, that  
 23       has independent claims based on financial assistance  
 24       provided to an individual obligee, or that has received an  
 25       application or interstate referral for services under title

1 IV-D of the Social Security Act; or, it is immaterial if the  
 2 person to whom a duty of support is owed is a recipient of  
 3 public assistance

4 (c) an individual or a state or political subdivision  
 5 seeking a judgment determining parentage of that  
 6 individual's child or a child receiving services under title  
 7 IV-D of the Social Security Act.

8 {7}(14) "Obligor" means an individual or the estate of a  
 9 decedent:

10 (a) any person owing who owes or is alleged to owe a  
 11 duty of support; or against whom a proceeding for the  
 12 enforcement of a duty of support or registration of

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

15 (c) who is liable under a support order is commenced.

16 {8}(15) "Prosecuting attorney" means the public official  
 17 in the appropriate place who has the duty to enforce  
 18 criminal laws relating to the failure to provide for the  
 19 support of any person. In cases that do not involve title  
 20 IV-D of the Social Security Act, the county attorney is the  
 21 prosecuting attorney.

22 {9}(16) "Register" means to file a support order or  
 23 judgment determining parentage in the registry of foreign  
 24 support orders.

25 {10}(17) "Registering court tribunal" means any court of

1 this state a tribunal in which a support order of a  
 2 rendering state is registered.

3 {11}(18) "Rendering Responding state" means a state in  
 4 to which the court has issued a support order for which  
 5 registration is sought or granted in the court of another  
 6 state a proceeding is forwarded under this part, an  
 7 interstate referral pursuant to title IV-D of the Social  
 8 Security Act, or a law substantially similar to this part,  
 9 the Uniform Reciprocal Enforcement of Support Act, or the  
 10 Revised Uniform Reciprocal Enforcement of Support Act.

11 {12}(19) "Responding court tribunal" means the court in  
 12 which the responsive proceeding is commenced authorized  
 13 tribunal in a responding state.

14 {13} "Responding state" means a state in which any  
 15 responsive proceeding pursuant to the proceeding in the  
 16 initiating state is commenced.

17 {20} "Spousal support order" means a support order for a  
 18 spouse or former spouse of the obligor.

19 {14}(21) "State" includes means a state, territory, or  
 20 possession of the United States, the District of Columbia,  
 21 the Commonwealth of Puerto Rico, or any territory or insular  
 22 possession subject to the jurisdiction of the United States.  
 23 The term "state" includes an Indian tribe and any includes a  
 24 foreign jurisdiction in which this or a that has established  
 25 procedures for issuance and enforcement of support orders

1 that are substantially similar reciprocal-law-is--in--effect  
2 to the procedures under this part.

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

5 (i) enforcement of support orders or laws relating to  
6 the duty of support;

7 (ii) establishment or modification of child support;

8 (iii) a determination of parentage; or

9 (iv) to locate obligors or their assets.

10 (b) Support enforcement agency includes:

11 (i) in cases brought under title IV-D of the Social  
12 Security Act, the department of social and rehabilitation  
13 services; and

14 (ii) in all other cases, the prosecuting attorney.

15 ~~(15)~~ (23) "Support order" means any a judgment, decree,  
16 or order, of--support--in--favor--of--an--obligee whether  
17 temporary, or final, or subject to modification, revocation,  
18 or remission, regardless of the kind of action or proceeding  
19 in which it is entered that is for the benefit of a child, a  
20 spouse or a former spouse, or a state or political  
21 subdivision; that provides for monetary support, health  
22 care, health insurance, arrearages, or reimbursement; and  
23 that may include related costs and fees, interest, income  
24 withholding, attorney fees, and other relief.

25 (24) "Tribunal" means a court, administrative agency, or

1 quasi-judicial entity authorized to establish, enforce, or  
2 modify support orders or to determine parentage."

3 NEW SECTION. Section 3. Tribunals of this state. The  
4 district courts and the department of social and  
5 rehabilitation services are the tribunals of this state. For  
6 cases brought pursuant to title IV-D of the Social Security  
7 Act, the department of social and rehabilitation services is  
8 the appropriate tribunal unless the department, acting as a  
9 support enforcement agency, initiates proceedings in  
10 district court. In all other cases, a district court is the  
11 appropriate tribunal.

12 Section 4. Section 40-5-104, MCA, is amended to read:

13 "40-5-104. Remedies additional--to--those--now--existing  
14 cumulative. The remedies herein Remedies provided in this  
15 part are in--addition--to cumulative and do not affect in  
16 substitution-for-any--other the availability of remedies  
17 under other law."

18 NEW SECTION. Section 5. Bases for jurisdiction over  
19 nonresident. In a proceeding to establish, enforce, or  
20 modify a support order or to determine parentage, a tribunal  
21 of this state may exercise personal jurisdiction over a  
22 nonresident individual or the individual's guardian or  
23 conservator if:

24 (1) the individual is personally served with notice  
25 within this state;

(2) the individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) the individual resided with the child in this state;

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

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

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

(7) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

**NEW SECTION. Section 6. Procedure when exercising jurisdiction over nonresident.** A tribunal of this state exercising personal jurisdiction over a nonresident pursuant to [section 5] may apply [section 29] to receive evidence from another state and [section 31] to obtain discovery through a tribunal of another state. In all other respects, [sections 15 through 17, 19 through 21, 24 through 34, and 39 through 48] and 40-5-115, 40-5-118, 40-5-119, 40-5-133, 40-5-137, 40-5-140, and 40-5-141 do not apply and the

tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by this part.

**NEW SECTION. Section 7. Initiating and responding tribunal of this state.** Under this part, a tribunal of this state may serve as an initiating tribunal to forward proceedings to another state and as a responding tribunal for proceedings initiated in another state.

**NEW SECTION. Section 8. Simultaneous proceedings in another state.** (1) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

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

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

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

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

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

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

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

(3) As used in this section, a "comparable pleading" includes an action initiated by the department of social and rehabilitation services under this chapter or by an administrative agency of another state that has a hearing function and process similar to those of the department.

**NEW SECTION. Section 9. Continuing, exclusive jurisdiction.**

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

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

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

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

(3) If a child support order of this state is modified by a tribunal of another state that has acquired jurisdiction consistent with this part, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state and may only:

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

(b) enforce nonmodifiable aspects of that order; and

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

(4) A tribunal of this state shall recognize the continuing, exclusive jurisdiction of a tribunal of another state that has acquired jurisdiction consistent with this part and that has issued a child support order pursuant to a law substantially similar to this part.

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

1 tribunal.

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

10 NEW SECTION. Section 10. Enforcement and modification  
11 of support order by tribunal having continuing jurisdiction.

12 (1) A tribunal of this state may serve as an initiating  
13 tribunal to request a tribunal of another state to enforce  
14 or modify a support order issued in that state.

15 (2) If this state has continuing, exclusive  
16 jurisdiction over a support order, an appropriate tribunal  
17 may act as a responding tribunal to enforce or modify the  
18 order. A tribunal of this state that has continuing,  
19 exclusive jurisdiction over a support order may act as a  
20 responding tribunal to enforce or modify the order of  
21 another state. If a party subject to the continuing,  
22 exclusive jurisdiction of the tribunal no longer resides in  
23 the issuing state, in subsequent proceedings the tribunal  
24 may apply [section 29] to receive evidence from another  
25 state and [section 31] to obtain discovery through a

1 tribunal of another state.

2 (3) If this state lacks continuing, exclusive  
3 jurisdiction over a spousal support order, a tribunal of  
4 this state may not serve as a responding tribunal to modify  
5 a spousal support order of another state.

6 NEW SECTION. Section 11. Recognition of child support  
7 orders. (1) If a proceeding is brought under this part and  
8 one or more child support orders have been issued in this or  
9 another state with regard to an obligor and a child, a  
10 tribunal of this state shall apply the following rules in  
11 determining which order to recognize for purposes of  
12 continuing, exclusive jurisdiction:

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

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

20 (c) If two or more tribunals have issued child support  
21 orders for the same obligor and child and more than one of  
22 the tribunals would have continuing, exclusive jurisdiction  
23 under this part, an order issued by a tribunal in the  
24 current home state of the child must be recognized. However,  
25 if an order has not been issued in the current home state of

the child, the order most recently issued must be recognized.

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

(2) The tribunal that has issued an order recognized under subsection (1) is the tribunal having continuing, exclusive jurisdiction.

**NEW SECTION. Section 12.** Multiple child support orders for two or more obligees. In responding to multiple registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which orders was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state.

**Section 13.** Section 40-5-106, MCA, is amended to read:

"40-5-106. Interstate Grounds for rendition. (1) The governor of this state may:

(a) demand of the governor of another state the surrender of a person an individual found in that the other state who is charged criminally in this state with failing

to provide for the support of any-person a child or to pay support to an obligee; or

(b) surrender on demand by the governor of another state, surrender a person an individual found in this state who is charged criminally in that state with failing to provide for the support of any-person a child or to pay support to an obligee.

(2) Provisions A provision for extradition of criminals individuals that is not inconsistent with this part apply applies to the demand even if the person individual whose surrender is demanded was not in the demanding state at the time of the commission of when the crime was allegedly committed and has not fled therefrom from the demanding state. The demand, the oath, and any proceedings for extradition pursuant to this section need not state or show that the person whose surrender is demanded has fled from justice or at the time of the commission of the crime was in the demanding state."

**Section 14.** Section 40-5-107, MCA, is amended to read:

"40-5-107. Conditions of interstate rendition. (1) Before making the a demand upon that the governor of another state for the surrender of a person an individual charged criminally in this state with failing having failed to provide for the support of a person a child or to pay support to an obligee, the governor of this state may

1 require any prosecuting attorney of this state to satisfy  
2 him demonstrate:

3 (a) that at least 60 days prior-thereto previously, the  
4 obligee had initiated proceedings for support under pursuant  
5 to this part; or

6 (b) that any the proceeding would be of no avail.

7 (2) If, under this part or a law substantially similar  
8 law to this part, the Uniform Reciprocal Enforcement of  
9 Support Act, or the Revised Uniform Reciprocal Enforcement  
10 of Support Act, the governor of another state makes a demand  
11 upon that the governor of this state ~~for-the~~ surrender of-a  
12 person an individual charged criminally in that state with  
13 failure having failed to provide for the support of a person  
14 child or to pay support to an obligee, the governor of this  
15 state may require any a prosecuting attorney to investigate  
16 the demand and to report to--him whether proceedings a  
17 proceeding for support have has been initiated or would be  
18 effective. If it appears ~~to-the-governor~~ that a proceeding  
19 would be effective but has not been initiated, he the  
20 governor of this state may delay honoring the demand for a  
21 reasonable time to permit the initiation of a proceeding.

22 (3) If ~~proceedings-have~~ a proceeding for support has  
23 been initiated and the person-demanded-has-prevailed-therein  
24 individual whose rendition is demanded prevails, the  
25 governor of this state may decline to honor the demand. If

1 the ~~obligee--prevailed~~ petitioner prevails and the person  
2 individual whose rendition is demanded is subject to a  
3 support order, the governor of this state may decline to  
4 honor the demand if the ~~person--demanded~~ individual is  
5 complying with the support order."

6 NEW SECTION. **Section 15. Proceedings under this part.**

7 (1) Except as otherwise provided in this part, [sections 15  
8 through 17, 19 through 21, 24 through 32, and 34] and  
9 40-5-115, 40-5-118, 40-5-119, and 40-5-133 apply to all  
10 proceedings under this part.

11 (2) This part provides for the following proceedings:

12 (a) establishment of an order for spousal support or  
13 child support pursuant to [section 33];

14 (b) enforcement of a support order and  
15 income-withholding order of another state without  
16 registration;

17 (c) registration of an order for spousal support or  
18 child support of another state for enforcement pursuant to  
19 [sections 39 through 47] and 40-5-137, 40-5-140, and  
20 40-5-141;

21 (d) modification of an order for child support or  
22 spousal support issued by a tribunal of this state pursuant  
23 to [sections 7 through 10];

24 (e) registration of an order for child support of  
25 another state for modification pursuant to [sections 39

through 47] and 40-5-137, 40-5-140, and 40-5-141;

(f) determination of parentage pursuant to [section 48]; and

(g) assertion of jurisdiction over nonresidents pursuant to [sections 5 and 6].

(3) If the tribunal is the department of social and rehabilitation services, this part includes the administrative remedies under this chapter.

(4) An obligee or a support enforcement agency may commence a proceeding authorized under this part by filing a petition in an appropriate initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state that has or can obtain personal jurisdiction over the respondent.

**NEW SECTION. Section 16.** Action by a minor parent. A minor parent or the guardian or other legal representative of a minor parent may maintain a proceeding on behalf of or for the benefit of the minor's child.

**NEW SECTION. Section 17.** Application of law of this state. Except as otherwise provided by this part, a responding tribunal of this state:

(1) shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this state and may

exercise all powers and provide all remedies available in those proceedings; and

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

**Section 18.** Section 40-5-115, MCA, is amended to read:

**"40-5-115. Duty Duties of initiating court tribunal.** ~~If the~~ Upon the filing of a petition authorized by this part, ~~an initiating court-finds-that-the-petition-sets-forth-facts from-which-it-may-be-determined-that-the-obligor-owes-a-duty of-support-and-that-a-court--of--the--responding--state--may obtain--jurisdiction--of--the--obligor--or--his-property,--it~~ tribunal shall so-certify-and-cause forward three copies of the petition and its certificate ~~and one copy of this part to-be-sent~~ accompanying documents:

(1) to the responding court--certification-shall-be--in accordance-with-the-requirements-of-the-initiating-state--if the--name-and-address-of-the-responding-court-is-unknown-and tribunal or appropriate support enforcement agency in the responding state; or

(2) has--an--information--agency--comparable--to--that established-in-the-initiating--state,--it--shall--cause--the copies-to-be-sent if the identity of the responding tribunal is unknown, to the state information agency or other proper official of the responding state, with a request that the

~~agency--or--official--forward--them~~ they be forwarded to the proper court and that the court of the responding state acknowledge their appropriate tribunal and that receipt to the initiating court be acknowledged."

**NEW SECTION. Section 19. Duties and powers of responding tribunal.** (1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to [section 15(4)], it shall:

(a) in cases brought pursuant to title IV-D of the Social Security Act, proceed pursuant to 40-5-263; and

(b) in all other cases, cause the petition or pleading to be filed and notify the petitioner by first-class mail where and when it was filed.

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

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

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

(c) order income withholding;

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

(e) enforce orders by use of civil or criminal

contempt, or both;

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

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

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

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

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

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

(l) grant any other available remedy.

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

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

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

**NEW SECTION. Section 20. Inappropriate tribunal.** If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner by first-class mail where and when the pleading was sent.

**NEW SECTION. Section 21. Duties of support enforcement agency.** (1) A support enforcement agency of this state, upon application, shall provide services to a petitioner in a proceeding under this part.

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

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

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

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

(d) after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice by first-class mail to the petitioner;

(e) after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication by first-class mail to the petitioner; and

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

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

**Section 22.** Section 40-5-118, MCA, is amended to read:

**"40-5-118. State Duties of state information agency.**

(1) The state department of social and rehabilitation services is designated as the state information agency under this part.

(2) ~~It~~ The department shall:

(a) compile and maintain a current list, including addresses, of the courts-and-their-addresses tribunals in this state having that have jurisdiction under this part and of any support enforcement agencies in this state and transmit it a copy to the state information agency of every other state which--has--adopted--this--or--a--substantially similar--law--Upon--the--adjournment--of--each--session--of--the

legislature--the--agency--shall--distribute--copies--of--any  
amendments--to--this--part--and--a--statement--of--their--effective  
date--to--all--other--state--information--agencies; and

(b) maintain a register of lists of courts tribunals  
and support enforcement agencies received--from of other  
states and--transmit--copies--thereof--promptly--to--every--court  
in--this--state--having--jurisdiction--under--this--part; and

(c)--forward--to--the--court--in--this--state--which--has  
jurisdiction--over--the--obligor--or--his--property--petitions,  
certificates, and copies of the--reciprocal--enforcement--of  
support--act--it--receives--from--courts--or--information--agencies  
of--other--states.

{3}--If--the--state--information--agency--does--not--know--the  
location--of--the--obligor--or--his--property--in--the--state--and--no  
state--location--service--is--available, it--shall--use--all--means  
at--its--disposal--to--obtain--this--information, including--the  
examination--of--official--records--in--the--state--and--other  
sources--such--as--telephone--directories, real--property  
records, vital--statistics--records, police--records, requests  
for--the--name--and--address--from--employers--who--are--able--or  
willing--to--cooperate, records--of--motor--vehicle--license  
offices, requests--made--to--the--tax--offices--both--state--and  
federal--where--such--offices--are--able--to--cooperate, and  
requests--made--to--the--social--security--administration--as  
permitted--by--the--Social--Security--Act, as--amended.

{4}--After--the--deposit--of--three--copies--of--the--petition  
and--certificate--and--one--copy--of--the--reciprocal--enforcement  
of--support--act--of--the--initiating--state--with--the--clerk--of--the  
appropriate--court, if--the--state--information--agency--knows--or  
believes--that--the--prosecuting--attorney--is--not--prosecuting  
the--case--diligently, it--shall--inform--the--attorney--general  
who--may--undertake--the--representation."

**Section 23.** Section 40-5-119, MCA, is amended to read:

"40-5-119. Duty of the--court--and--officials--of--this  
state--as--responding--state attorney general. {1}--After--the  
responding--court--receives--copies--of--the--petition,  
certificate, and reciprocal--enforcement--of--support--act--from  
the--initiating--court, the--clerk--of--the--court--shall--docket  
the--case--and--notify--the--prosecuting--attorney--of--his--action"

{2}--The--prosecuting--attorney--shall--prosecute--the--case  
diligently. He--shall--take--all--action--necessary--in--accordance  
with--the--laws--of--this--state--to--enable--the--court--to--obtain  
jurisdiction--over--the--obligor--or--his--property--and--shall  
request--the--court--to--set--a--time--and--place--for--a--hearing--and  
give--notice--thereof--to--the--obligor--in--accordance--with--law.

{3} If the prosecuting--attorney--neglects--or--refuses--to  
represent--the--obligee, the attorney general determines that  
a support enforcement agency is neglecting or refusing to  
provide services to an obligee, the attorney general may  
order him the agency to comply--with--the--request--of--the--court

perform its duties under this part or may undertake--the representation provide those services directly to the obligee."

**NEW SECTION. Section 24.** Private counsel. An obligee may employ private counsel to represent the obligee in proceedings authorized by this part.

**NEW SECTION. Section 25.** Pleadings and accompanying documents. (1) A petitioner who seeks to establish or modify a support order or to determine parentage in a proceeding under this part shall verify the petition. Unless otherwise ordered under [section 26], the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee and the name, sex, residential address, social security number, and date of birth of each child for whom support is sought. The petition must be accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(2) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a title IV-D of the Social Security Act agency.

**NEW SECTION. Section 26.** Nondisclosure of information

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

**NEW SECTION. Section 27.** Costs and fees. (1) In cases brought pursuant to title IV-D of the Social Security Act, costs and fees must be assessed as provided in 40-5-210.

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

(3) The tribunal shall order the payment of costs and reasonable attorney fees if it determines that a hearing was

requested primarily for delay. In a proceeding under [sections 39 through 47] and 40-5-137, 40-5-140, 40-5-141, or 40-5-271, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

**NEW SECTION. Section 28. Nonparentage as defense -- limitation.** A party whose parentage of a child has been finally determined by a court order or decree, by an administrative order, or pursuant to law may not plead nonparentage as a defense to a proceeding under this part.

**NEW SECTION. Section 29. Special rules of evidence and procedure.** (1) The physical presence of the petitioner in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or for the rendition of a judgment determining parentage.

(2) A verified petition, affidavit, or document substantially complying with federally mandated forms for use by title IV-D of the Social Security Act agencies and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

(3) A copy of the record of child support payments certified as a true copy of the original by the custodian of

the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it and is admissible to show whether payments were made.

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

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

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

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

inference from the refusal.

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

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

**NEW SECTION. Section 30. Communications between tribunals.** A tribunal of this state may communicate, in writing or by telephone or other means, with a tribunal of another state to obtain information concerning the laws of that state; the legal effect of a judgment, decree, or order of that tribunal; and the status of a proceeding in the other state. A tribunal of this state may furnish similar information by similar means to a tribunal of another state.

**NEW SECTION. Section 31. Assistance with discovery.** A tribunal of this state may:

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

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

**NEW SECTION. Section 32. Receipt and disbursement of payments.** A support enforcement agency or tribunal of this state authorized by law to receive support payments shall

disburse promptly any amounts received pursuant to a support order. The agency or appropriate tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

**NEW SECTION. Section 33. Petition to establish support order.** (1) If a support order entitled to recognition under this part has not been issued, an appropriate responding tribunal of this state may issue a support order if:

(a) the individual seeking the order resides in another state; or

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

(2) The tribunal may issue a temporary child support order if:

(a) the respondent has signed a verified statement acknowledging parentage;

(b) the respondent has been determined by or pursuant to law to be the parent; or

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

(3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to [section 19].

**NEW SECTION. Section 34. Administrative enforcement of**

orders. (1) If the department of social and rehabilitation services is providing services pursuant to title IV-D of the Social Security Act, a party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to the department.

(2) Upon receipt of the documents, the department, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the department shall register the order pursuant to Title 40, chapter 5, part 2 or 4.

**Section 35. Section 40-5-133, MCA, is amended to read:**

**"40-5-133. Effect---of---participation---in--proceeding**  
Limited immunity of petitioner. (1) Participation by a  
petitioner in any a proceeding under-this-part before a  
responding tribunal, whether in person, by private attorney,  
or through services provided by a support enforcement  
agency, does not confer jurisdiction upon-any-court over any  
of the parties--thereto petitioner in any--other another

proceeding.

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

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

**Section 36. Section 40-5-137, MCA, is amended to read:**

**"40-5-137. Registration of order for enforcement. The**  
obligee-may-register-the-foreign A support order in-a--court  
of or an income-withholding order issued by a tribunal of  
another state may be registered in this state in-the-manner,  
with-the-effect,-and-for-the-purposes--herein--provided for  
enforcement."

**Section 37. Section 40-5-140, MCA, is amended to read:**

**"40-5-140. Registration--procedure-----notice Procedure**  
to register order for enforcement. (1) An-obligee-seeking-to  
register-a-foreign A support order or income-withholding  
order of another state may be registered in a-court-of this  
state:

(a) in cases brought pursuant to title IV-D of the  
Social Security Act, as provided in part 2 of this chapter;  
and

(b) shall transmit in all other cases by sending the following documents and information to the clerk of the court:

(i) a letter of transmittal to the tribunal to request registration and enforcement;

(a)(ii) three---certified two copies, including one certified copy, of the order with all modifications--thereof orders to be registered, including any modification of an order;

(b) one copy of the reciprocal enforcement--of--support act of the state in which the order was made; and

(c)(iii) a sworn statement, verified and signed by the obligee, showing the post office address of the obligee, party seeking registration or a certified statement by the custodian of the records, showing the amount of any arrearages;

(iv) the name of the obligor and, if known:

(A) the obligor's last--known--place-of-residence-and post-office address of the obligor, the--amount--of--support remaining-unpaid, and social security number;

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

(C) a description and the location of any property of the obligor available upon in this state that is not exempt from execution, and a list of the states in which the order

is registered; and

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

(2) Upon receipt of these documents the clerk of the court a request for registration, without--payment--of--a filing--fee--or--other--cost--to--the--obligee, shall file them in the--registry--of--foreign--support--orders,---The---filing constitutes--registration--under--this--part the registering tribunal shall cause the order to be filed, together with one copy of the documents and information, regardless of their form.

(3) Promptly upon registration the clerk of the court shall send by certified or registered mail to the obligor at the--address--given--a--notice--of--the--registration--with--a--copy of the registered support order and the post office address of the obligee. He shall also docket the case and notify the prosecuting attorney of his action. The prosecuting attorney shall proceed diligently to enforce the order. A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed either at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought."

**Section 38.** Section 40-5-141, MCA, is amended to read:

"40-5-141. Effect of registration -- enforcement procedure. (1) Upon registration the A support order or income-withholding order issued in another state is registered foreign support when the order shall be treated in the same manner as a support order issued by a court is filed in a registering tribunal of this state.

(2) It has the same effect A registered order issued in another state is enforceable in the same manner and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a support an order issued by a tribunal of this state and may be enforced and satisfied in like manner.

(2) The obligor has 20 days after the mailing of notice of the registration in which to petition the court to vacate the registration or for other relief. If he does not so petition, the registered support order is confirmed.

(3) At the hearing to enforce the registered support order, the obligor may present only matters that would be available to him as defenses in an action to enforce a foreign money judgment. If he shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted, the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security

for payment of the support ordered as required by the rendering state, if he shows to the court any ground upon which enforcement of a support order of this state may be stayed, the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this state. Except as otherwise provided in [sections 39 through 47] and 40-5-137, 40-5-140, and 40-5-141, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction."

NEW SECTION. Section 39. Choice of law. (1) The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.

(2) In a proceeding for arrearages, the statute of limitations under the laws of this state or of the issuing state, whichever is longer, applies.

NEW SECTION. Section 40. Notice of registration of order. (1) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. Notice must be given by first-class or certified mail or by any means of personal service authorized by the law of this state. The notice must be accompanied by a copy of the registered order

1 and the documents and relevant information accompanying the  
2 order.

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

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

7 (b) that a hearing to contest the validity or  
8 enforcement of the registered order must be requested within  
9 20 days after the date of mailing or personal service of the  
10 notice;

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

13 (i) will result in confirmation of the order and  
14 enforcement of the order and the alleged arrearages; and

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

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

18 (3) Upon registration of an income-withholding order  
19 for enforcement, the registering tribunal shall notify the  
20 obligor's employer pursuant to Title 40, chapter 5, part 4.

21 **NEW SECTION. Section 41. Procedure to contest validity**  
22 **or enforcement of registered order.** (1) A nonregistering  
23 party seeking to contest the validity or enforcement of a  
24 registered order in this state shall request a hearing  
25 within 20 days after the date of mailing or personal service

1 of notice of the registration. The nonregistering party may,  
2 pursuant to [section 42], seek to vacate the registration,  
3 to assert any defense to an allegation of noncompliance with  
4 the registered order, or to contest the remedies being  
5 sought or the amount of any alleged arrearages.

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

9 (3) If a nonregistering party requests a hearing to  
10 contest the validity or enforcement of the registered order,  
11 the registering tribunal shall schedule the matter for  
12 hearing and give notice to the parties by first-class mail  
13 of the date, time, and place of the hearing.

14 **NEW SECTION. Section 42. Contest of registration or**  
15 **enforcement.** (1) A party contesting the validity or  
16 enforcement of a registered order or seeking to vacate the  
17 registration has the burden of proving one or more of the  
18 following defenses:

19 (a) the issuing tribunal lacked personal jurisdiction  
20 over the contesting party;

21 (b) the order was obtained by fraud;

22 (c) the order has been vacated, suspended, or modified  
23 by a later order;

24 (d) the issuing tribunal has stayed the order pending  
25 appeal;

(e) there is a defense under the law of this state to the remedy sought;

(f) full or partial payment has been made; or

(g) the statute of limitations under [section 39] precludes enforcement of some or all of the arrearages.

(2) If a party presents evidence establishing a full or partial defense under subsection (1), the registering tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

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

**NEW SECTION. Section 43. Confirmed order.** Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

**NEW SECTION. Section 44. Procedure to register child support order of another state for modification.** A party or support enforcement agency seeking to modify or to modify and enforce a child support order issued in another state

shall register that order in this state in the same manner provided in 40-5-137, 40-5-140, 40-5-141, [section 40], and 40-5-271 if the order has not been registered. A petition for modification may be filed either at the same time as a request for registration or later. The pleading must specify the grounds for modification.

**NEW SECTION. Section 45. Effect of registration for modification.** A tribunal of this state may enforce a child support order of another state, registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state. However, the registered order may be modified only if the requirements of [section 46] have been met.

**NEW SECTION. Section 46. Modification of child support order of another state.** (1) After a child support order issued in another state has been registered in this state, the appropriate responding tribunal of this state may modify that order only if, after notice and hearing, it finds that:

(a) the following requirements are met:

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

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

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

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

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

(3) A tribunal of this state may modify only a child support order. A tribunal may not modify provisions, such as custody, visitation, or other provisions not related to support.

(4) On issuance of an order modifying a child support order issued in another state, a tribunal of this state has continuing, exclusive jurisdiction.

(5) Within 30 days after issuance of a modified child support order, the tribunal issuing the modification shall file a certified copy of the order:

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

(b) in each tribunal in which the modifying tribunal

knows that earlier order has been registered.

**NEW SECTION. Section 47. Recognition of order modified in another state.** A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state that assumed jurisdiction pursuant to a law substantially similar to this part. Except as otherwise provided in this part, the tribunal of this state shall, upon request:

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

(2) enforce only nonmodifiable aspects of that order;

(3) provide other appropriate relief only for violations of the order that occurred before the effective date of the modification; and

(4) recognize and enforce the modifying order of the other state, upon request or registration as provided in this part.

**NEW SECTION. Section 48. Proceeding to determine parentage.** (1) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under this part or a law substantially similar to this part, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act to determine whether the petitioner is a parent of a particular child or to determine whether a respondent is a parent of

1 that child.

2 (2) In a proceeding to determine parentage, a  
3 responding tribunal of this state shall apply the rules of  
4 this state on choice of law and:

5 (a) in cases brought pursuant to title IV-D of the  
6 Social Security Act, the provisions of 40-5-231 through  
7 40-5-237; and

8 (b) in all other cases, the provisions of Title 40,  
9 chapter 6, part 1.

10 **Section 49.** Section 40-5-142, MCA, is amended to read:

11 "40-5-142. Uniformity of interpretation. This part  
12 shall must be so construed as to effectuate its general  
13 purpose to make uniform the law ~~of those with respect to the~~  
14 subject of this part among states which enact enacting it."

15 **Section 50.** Section 40-5-272, MCA, is amended to read:

16 "40-5-272. Application for review of child support  
17 orders. (1) Upon the application of the department, the  
18 obligor, or the obligee, a hearing officer appointed  
19 pursuant to 40-5-273 shall review support orders filed with  
20 the support order registry. The purpose of the review is to  
21 determine whether the support order should be modified in  
22 accordance with the guidelines.

23 (2) Jurisdiction to conduct the review and to issue a  
24 modifying order under 40-5-273 is authorized when:

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

1 (b) jurisdiction can be obtained as provided under  
2 40-4-210; or

3 (c) the obligor resides in this state and the  
4 department is providing IV-D enforcement services for the  
5 order.

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

9 (4) Criteria constituting sufficient grounds for review  
10 of a child support order include:

11 (a) inconsistency with this state's guidelines, unless  
12 the inconsistency is considered negligible under department  
13 rules; or

14 (b) availability of health insurance coverage to the  
15 obligor's child through the obligor's employment or other  
16 group insurance.

17 (5) The department shall make available procedures and  
18 forms that allow the obligor or the obligee to complete the  
19 review process without legal counsel.

20 (6) To the extent that they are consistent with this  
21 section, the provisions of [sections 5, 9, and 10] apply to  
22 this section."

23 **Section 51.** Section 40-5-431, MCA, is amended to read:

24 "40-5-431. Registration of interstate income  
25 withholding orders. (1) Whenever an obligor, whether or not

1 he the obligor resides in this state, derives income within  
 2 this state and an order for income withholding of the  
 3 obligor's income has been issued by a public agency of  
 4 another state as a means to enforce support orders under  
 5 Title IV-D of the Social Security Act, that agency may  
 6 register the income withholding order with the department.  
 7 Upon registration of the foreign withholding order, it must  
 8 be treated in the same manner and have the same effect as an  
 9 income withholding order issued by the department. The  
 10 provisions of [sections 40 through 43] apply to this section  
 11 to the extent that they are consistent with this section.

12 (2) The application for registration of a foreign order  
 13 for income withholding must include:

14 (a) a certified copy of the support order, with all  
 15 modifications thereof of the order;

16 (b) a certified copy of the income withholding order;

17 (c) a sworn statement of the facts entitling the agency  
 18 to issue an income withholding order, including a statement  
 19 of the amount of arrearages and a statement that all  
 20 procedural due process requirements of the foreign  
 21 jurisdiction for issuance of such the income withholding  
 22 order have been carried out in full;

23 (d) the name, address, and social security number of  
 24 the obligor;

25 (e) the name and address of the obligor's employer or

1 of any other payor of income to the obligor if the order for  
 2 income withholding of the foreign jurisdiction extends to  
 3 such other income; and

4 (f) the name and address of the agency or person to  
 5 whom support payments collected by the department under  
 6 income withholding procedures should be transmitted.

7 (3) When the foreign income withholding order is  
 8 registered, the department shall serve the order upon the  
 9 payor, with directions to the payor to comply with the order  
 10 and to deliver the withheld amounts to the department.  
 11 Registration of a foreign income-withholding order under  
 12 this section does not confer jurisdiction for any other  
 13 purpose, such as modification of the support order, custody,  
 14 or visitation."

15 NEW SECTION. Section 52. Repealer. Sections 40-5-102,  
 16 40-5-105, 40-5-108, 40-5-109, 40-5-110, 40-5-111, 40-5-112,  
 17 40-5-113, 40-5-114, 40-5-116, 40-5-117, 40-5-120, 40-5-121,  
 18 40-5-122, 40-5-123, 40-5-124, 40-5-125, 40-5-126, 40-5-127,  
 19 40-5-128, 40-5-129, 40-5-130, 40-5-131, 40-5-132, 40-5-134,  
 20 40-5-135, 40-5-136, 40-5-138, and 40-5-139, MCA, are  
 21 repealed.

22 NEW SECTION. Section 53. Severability. If a part of  
 23 [this act] is invalid, all valid parts that are severable  
 24 from the invalid part remain in effect. If a part of [this  
 25 act] is invalid in one or more of its applications, the part

1 remains in effect in all valid applications that are  
2 severable from the invalid applications.

3 NEW SECTION. **Section 54.** Codification instruction.  
4 [Sections 3, 5 through 12, 15 through 17, 19 through 21, 24  
5 through 34, and 39 through 48] are intended to be codified  
6 as an integral part of Title 40, chapter 5, part 1, and the  
7 provisions of Title 40, chapter 5, part 1, apply to  
8 [sections 3, 5 through 12, 15 through 17, 19 through 21, 24  
9 through 34, and 39 through 48].

-End-

APPROVED BY COMMITTEE  
ON JUDICIARY

HOUSE BILL NO. 228

INTRODUCED BY TOOLE, LARSON, FAGG

A BILL FOR AN ACT ENTITLED: "AN ACT REPLACING THE REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT WITH THE UNIFORM INTERSTATE FAMILY SUPPORT ACT; CLARIFYING THAT ONLY ONE STATE HAS JURISDICTION TO MODIFY A SUPPORT AWARD AT ANY TIME; REVISING PRINCIPLES OF INTERSTATE JURISDICTION AND CLARIFYING THE JURISDICTION OF THE HOME STATE OF A CHILD; EXTENDING CHILD SUPPORT ENFORCEMENT PROVISIONS TO SPOUSAL SUPPORT; AMENDING SECTIONS 40-4-210, 40-5-101, 40-5-103, 40-5-104, 40-5-106, 40-5-107, 40-5-115, 40-5-118, 40-5-119, 40-5-133, 40-5-137, 40-5-140, 40-5-141, 40-5-142, 40-5-202, 40-5-226, 40-5-231, 40-5-263, 40-5-272, AND 40-5-431, AND 40-6-109, MCA; AND REPEALING SECTIONS 40-5-102, 40-5-105, 40-5-108, 40-5-109, 40-5-110, 40-5-111, 40-5-112, 40-5-113, 40-5-114, 40-5-116, 40-5-117, 40-5-120, 40-5-121, 40-5-122, 40-5-123, 40-5-124, 40-5-125, 40-5-126, 40-5-127, 40-5-128, 40-5-129, 40-5-130, 40-5-131, 40-5-132, 40-5-134, 40-5-135, 40-5-136, 40-5-138, AND 40-5-139, MCA."

WHEREAS, THE UNITED STATES COMMISSION ON INTERSTATE CHILD SUPPORT AND THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS INTEND [SECTION 21] TO REQUIRE A STATE SUPPORT ENFORCEMENT AGENCY, IN A UNIFORM INTERSTATE FAMILY

SUPPORT ACT (UIFSA) PROCEEDING, TO PROVIDE LOCATOR SERVICES UPON THE REQUEST OF ANY INDIVIDUAL; AND

WHEREAS, THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES IS CHARGED UNDER [SECTION 21] WITH PROVIDING LOCATOR SERVICES AND DOES NOT RECEIVE A STATE GENERAL FUND APPROPRIATION FOR PROVIDING LOCATOR SERVICES; AND

WHEREAS, IN ENACTING [SECTION 21] THE LEGISLATURE OF THE STATE OF MONTANA INTENDS THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO ESTABLISH A FEE SCHEDULE UNDER 40-5-210 FOR LOCATOR SERVICES PROVIDED TO AN INDIVIDUAL UNDER [SECTION 21].

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

**Section 1.** Section 40-5-101, MCA, is amended to read:

"40-5-101. Short title. This part may be cited as the "Revised Uniform Reciprocal-Enforcement-of Interstate Family Support Act (1968)"."

**Section 2.** Section 40-5-103, MCA, is amended to read:

"40-5-103. Definitions. (1) "Court"--means-the--district court--of--this--state-and, when the context requires, means the court of any other state as defined in--a--substantially similar-reciprocal-law. "Child" means an individual, whether over or under the age of majority, who is or is alleged to be owed a duty of support by the individual's parent or who is or is alleged to be the beneficiary of a child support

order directed to the parent.

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

(3) "Duty of support":

(a) means an obligation a--duty--of--support--whether imposed or imposable by law or-by-order,-decree,-or-judgment of--any--court,--whether--interlocutory-or-final,-or-whether incidental-to-an-action-for--divorce,-separation,-separate maintenance,-or--otherwise--and--includes--the--duty-to-pay arrearages-of-support-past-due-and-unpaid to provide support for a child, spouse, or former spouse; and

(b) includes an unsatisfied obligation to provide support.

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

(5) "Home state" means the state in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 months old, the state in which the child lived from birth with a parent or person acting as parent. A period of temporary absence of a parent or person acting as parent is counted as part of the 6-month or other

period.

(6) "Income" includes:

(a) earnings or other periodic entitlements to money from any source; and

(b) any other property subject to withholding for support under the law of this state.

(7) "Income-withholding order" means an order or other legal process directed to an obligor's employer, as provided in Title 40, chapter 5, parts 3 and 4, or by a tribunal of another state to withhold support from the income of the obligor.

(8) "Initiating state" means a state in which a proceeding pursuant to this part,--an--interstate--referral pursuant--to-title-IV-B-of-the-Social-Security-Act, or a law substantially similar reciprocal-law-is--commenced to this part, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act, OR A PROCEEDING INITIATED BY THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES UNDER 40-5-263 is filed for forwarding to a responding state.

(9) "Initiating court tribunal" means the court-in which-a-proceeding-is-commenced authorized tribunal in an initiating state.

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

1 parentage.

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

4 (5)(12) "Law" includes both--common decisional and  
5 statutory law and rules and regulations having the force of  
6 law.

7 (6)(13) "Obligee" means:

8 (a) a--person,---including---a---state---or---political  
9 subdivision, an individual to whom a duty of support is or  
10 is alleged to be owed or in whose favor a support order has  
11 been issued or a judgment determining parentage has been  
12 rendered;

13 (b) a person,---including---a state or political  
14 subdivision,---that-has-commenced-a-proceeding-for-enforcement  
15 of-an-alleged to which the rights under a duty of support or  
16 for--registration--of a support order have been assigned, OR  
17 that has independent claims based on financial assistance  
18 provided to an individual obligee,---or---that-has-received-an  
19 application-or-interstate-referral-for-services-under--title  
20 IV-B-of-the-Social-Security-Act; or,---it-is-immaterial-if-the  
21 person--to--whom-a-duty-of-support-is-owed-is-a-recipient-of  
22 public-assistance

23 (c) an individual or-a-state-or--political--subdivision  
24 seeking a judgment determining parentage of that  
25 individual's child or-a-child-receiving-services-under-title

1 IV-B-of-the-Social-Security-Act.

2 (7)(14) "Obligor" means an individual or the estate of a  
3 decedent:

4 (a) any--person--owing who owes or is alleged to owe a  
5 duty of support; or--against--whom--a--proceeding--for--the  
6 enforcement-of-a-duty-of-support-or-registration-of

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

9 (c) who is liable under a support order is-commenced.

10 (8)(15) "Prosecuting attorney" means the public official  
11 in the appropriate place who has the duty to enforce  
12 criminal laws relating to the failure to provide for the  
13 support of any person. In-cases-that-do-not-involve-title  
14 IV-B-of-the-Social-Security-Act,---the-county-attorney-is--the  
15 prosecuting-attorney;

16 (9)(16) "Register" means to file a support order or  
17 judgment determining parentage in the registry of foreign  
18 support orders.

19 (10)(17) "Registering court tribunal" means any-court-of  
20 this--state a tribunal in which a support order of-a  
21 rendering-state is registered.

22 (11)(18) "Rendering Responding state" means a state in  
23 to which the--court--has--issued-a-support-order-for-which  
24 registration-is-sought-or-granted-in-the--court--of--another  
25 state a proceeding is forwarded under this part,--an

~~interstate referral pursuant to title IV-B of the Social Security Act~~ or a law substantially similar to this part, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act, OR A PROCEEDING INITIATED BY THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES UNDER 40-5-263.

~~(12)(19)~~ "Responding court tribunal" means the court in which the responsive proceeding is commenced authorized tribunal in a responding state.

~~(13)~~ "Responding state" means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced.

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

~~(14)(21)~~ "State" includes means a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or insular possession subject to the jurisdiction of the United States. The term "state" includes an Indian tribe and any includes a foreign jurisdiction in which this or a that has established procedures for issuance and enforcement of support orders that are substantially similar reciprocal law is in effect to the procedures under this part.

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

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

(ii) establishment or modification of child support;

(iii) a determination of parentage; or

(iv) to locate obligors or their assets.

(b) Support enforcement agency includes:

(i) in cases brought under title IV-D of the Social Security Act, the department of social and rehabilitation services; and

(ii) in all other cases, the prosecuting attorney.

~~(15)(23)~~ "Support order" means any a judgment, decree, or order, of support in favor of an obligee whether temporary, or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered that is for the benefit of a child, a spouse or a former spouse, or a state or political subdivision; that provides for monetary support, health care, health insurance, arrearages, or reimbursement; and that may include related costs and fees, interest, income withholding, attorney fees, and other relief.

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

**NEW SECTION. Section 3.** Tribunals of this state. The district courts and the department of social and

rehabilitation services are the tribunals of this state. For cases--brought-pursuant-to-title-IV-B-of-the-Social-Security Act, the department of social and rehabilitation services is the appropriate tribunal unless the department, acting as a support---enforcement---agency,---initiates---proceedings---in district court, in all other cases, a district court is the appropriate tribunal.

**Section 4.** Section 40-5-104, MCA, is amended to read:

"40-5-104. Remedies additional--to--those-now-existing cumulative. The remedies herein Remedies provided in this part are in--addition--to cumulative and do not affect in substitution-for-any--other the availability of remedies under other law."

**NEW SECTION. Section 5.** Bases for jurisdiction over nonresident. In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

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

(2) the individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) the individual resided with the child in this state;

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

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

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

(7) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

**NEW SECTION. Section 6.** Procedure when exercising jurisdiction over nonresident. A tribunal of this state exercising personal jurisdiction over a nonresident pursuant to [section 5] may apply [section 29] to receive evidence from another state and [section 31] to obtain discovery through a tribunal of another state. In all other respects, [sections 15 through 17, 19 through 21, 24 through 34, and 39 through 48] and 40-5-115, 40-5-118, 40-5-119, 40-5-133, 40-5-137, 40-5-140, and 40-5-141 do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by this part.

**NEW SECTION. Section 7.** Initiating and responding

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

NEW SECTION. Section 8. Simultaneous proceedings in another state. (1) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

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

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

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

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

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

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

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

~~{3}--As-used-in-this-section,--a--"comparable--pleading" includes--an--action--initiated--by--the--department--of--social--and--rehabilitation---services---under---this---chapter---or---by---an--administrative--agency--of--another--state--that--has--a--hearing--function--and--process--similar--to--those--of--the--department--~~

NEW SECTION. Section 9. Continuing, exclusive jurisdiction.

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

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

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

(2) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to

1 a law substantially similar to this part.

2 (3) If a child support order of this state is modified  
3 by a tribunal of another state that--has--acquired  
4 ~~jurisdiction-consistent-with~~ PURSUANT TO A LAW SUBSTANTIALLY  
5 SIMILAR TO this part, a tribunal of this state loses its  
6 continuing, exclusive jurisdiction with regard to  
7 prospective enforcement of the order issued in this state  
8 and may only:

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

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

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

15 (4) A tribunal of this state shall recognize the  
16 continuing, exclusive jurisdiction of a tribunal of another  
17 state that has ~~acquired-jurisdiction-consistent-with-this~~  
18 ~~part-and-that-has~~ issued a child support order pursuant to a  
19 law substantially similar to this part.

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

24 (6) A tribunal of this state issuing a support order  
25 consistent with the law of this state has continuing,

1 exclusive jurisdiction over a spousal support order  
2 throughout the existence of the support obligation. A  
3 tribunal of this state may not modify a spousal support  
4 order issued by a tribunal of another state having  
5 continuing, exclusive jurisdiction over that order under the  
6 law of that state.

7 NEW SECTION. Section 10. Enforcement and modification  
8 of support order by tribunal having continuing jurisdiction.

9 (1) A tribunal of this state may serve as an initiating  
10 tribunal to request a tribunal of another state to enforce  
11 or modify a support order issued in that state.

12 (2) ~~If---this---state---has---continuing,---exclusive~~  
13 ~~jurisdiction--over--a-support-order,--an-appropriate-tribunal~~  
14 ~~may-act-as-a-responding-tribunal-to-enforce--or--modify--the~~  
15 ~~order.~~ A tribunal of this state that has continuing,  
16 exclusive jurisdiction over a support order may act as a  
17 responding tribunal to enforce or modify the order of  
18 another state. If a party subject to the continuing,  
19 exclusive jurisdiction of the tribunal no longer resides in  
20 the issuing state, in subsequent proceedings the tribunal  
21 may apply [section 29] to receive evidence from another  
22 state and [section 31] to obtain discovery through a  
23 tribunal of another state.

24 (3) ~~If---this---state---lacks---continuing,---exclusive~~  
25 ~~jurisdiction-over-a-spousal-support-order,--a~~ A tribunal of

1 this state THAT LACKS CONTINUING, EXCLUSIVE JURISDICTION  
 2 OVER A SPOUSAL SUPPORT ORDER may not serve as a responding  
 3 tribunal to modify a spousal support order of another state.

4 **NEW SECTION. Section 11.** Recognition of child support  
 5 orders. (1) If a proceeding is brought under this part and  
 6 one or more child support orders have been issued in this or  
 7 another state with regard to an obligor and a child, a  
 8 tribunal of this state shall apply the following rules in  
 9 determining which order to recognize for purposes of  
 10 continuing, exclusive jurisdiction:

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

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

18 (c) If two or more tribunals have issued child support  
 19 orders for the same obligor and child and more than one of  
 20 the tribunals would have continuing, exclusive jurisdiction  
 21 under this part, an order issued by a tribunal in the  
 22 current home state of the child must be recognized. However,  
 23 if an order has not been issued in the current home state of  
 24 the child, the order most recently issued must be  
 25 recognized.

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

6 (2) The tribunal that has issued an order recognized  
 7 under subsection (1) is the tribunal having continuing,  
 8 exclusive jurisdiction.

9 **NEW SECTION. Section 12.** Multiple child support orders  
 10 for two or more obligees. In responding to multiple  
 11 registrations or petitions for enforcement of two or more  
 12 child support orders in effect at the same time with regard  
 13 to the same obligor and different individual obligees, at  
 14 least one of which orders was issued by a tribunal of  
 15 another state, a tribunal of this state shall enforce those  
 16 orders in the same manner as if the multiple orders had been  
 17 issued by a tribunal of this state.

18 **Section 13.** Section 40-5-106, MCA, is amended to read:

19 "40-5-106. Interstate Grounds for rendition. (1) The  
 20 governor of this state may:

21 ~~(1)(a)~~ demand of the governor of another state the  
 22 surrender of a-person an individual found in that the other  
 23 state who is charged criminally in this state with failing  
 24 to provide for the support of any-person a-child-or-to-pay  
 25 support-to an obligee; or

1     ~~{2}~~(b) surrender on demand by the governor of another  
 2     state, surrender a person an individual found in this state  
 3     who is charged criminally in that state with failing to  
 4     provide for the support of any person a child or to pay  
 5     support to an obligee.

6     (2) Provisions A provision for extradition of criminals  
 7     individuals that is not inconsistent with this part apply  
 8     applies to the demand even if the person individual whose  
 9     surrender is demanded was not in the demanding state at--the  
 10    time--of--the--commission--of when the crime was allegedly  
 11    committed and has not fled therefrom from the demanding  
 12    state. The--demandy--the--oathy--and--any--proceedings--for  
 13    extradition--pursuant-to-this-section-need-not-state-or-show  
 14    that-the-person-whose-surrender-is-demanded--has--fled--from  
 15    justice-or-at-the-time-of-the-commission-of-the-crime-was-in  
 16    the-demanding-state."

17    Section 14. Section 40-5-107, MCA, is amended to read:

18    "40-5-107. Conditions of interstate rendition. (1)  
 19    Before making the a demand upon that the governor of another  
 20    state for-the surrender of-a-person an individual charged  
 21    criminally in this state with failing having failed to  
 22    provide for the support of a--person a child or to pay  
 23    support to an obligee, the governor of this state may  
 24    require any prosecuting attorney of this state to satisfy  
 25    him demonstrate:

1     (a) that at least 60 days prior-thereto previously, the  
 2     obligee had initiated proceedings for support under pursuant  
 3     to this part; or

4     (b) that any the proceeding would be of no avail.

5     (2) If, under this part or a law substantially similar  
 6     law to this part, the Uniform Reciprocal Enforcement of  
 7     Support Act, or the Revised Uniform Reciprocal Enforcement  
 8     of Support Act, the governor of another state makes a demand  
 9     upon that the governor of this state for-the surrender of--a  
 10    person an individual charged criminally in that state with  
 11    failure having failed to provide for the support of a person  
 12    child or to pay support to an obligee, the governor of this  
 13    state may require any a prosecuting attorney to investigate  
 14    the demand and to report to--him whether proceedings a  
 15    proceeding for support have has been initiated or would be  
 16    effective. If it appears to-the-governor that a proceeding  
 17    would be effective but has not been initiated, he the  
 18    governor of this state may delay honoring the demand for a  
 19    reasonable time to permit the initiation of a proceeding.

20    (3) If proceedings--have a proceeding for support has  
 21    been initiated and the person-demanded-has-prevailed-therein  
 22    individual whose rendition is demanded prevails, the  
 23    governor of this state may decline to honor the demand. If  
 24    the obligee-prevailed petitioner prevails and the person  
 25    individual whose rendition is demanded is subject to a

support order, the governor of this state may decline to honor the demand if the person--demanded individual is complying with the support order."

**NEW SECTION. Section 15. Proceedings under this part.**

(1) Except as otherwise provided in this part, [sections 15 through 17, 19 through 21, 24 through 32, and 34] and 40-5-115, 40-5-118, 40-5-119, and 40-5-133 apply to all proceedings under this part.

(2) This part provides for the following proceedings:

(a) establishment of an order for spousal support or child support pursuant to [section 33];

(b) enforcement of a support order and income-withholding order of another state without registration;

(c) registration of an order for spousal support or child support of another state for enforcement pursuant to [sections 39 through 47] and 40-5-137, 40-5-140, and 40-5-141;

(d) modification of an order for child support or spousal support issued by a tribunal of this state pursuant to [sections 7 through 10];

(e) registration of an order for child support of another state for modification pursuant to [sections 39 through 47] and 40-5-137, 40-5-140, and 40-5-141;

(f) determination of parentage pursuant to [section

48]; and

(g) assertion of jurisdiction over nonresidents pursuant to [sections 5 and 6].

(3) If the tribunal is the department of social and rehabilitation services, this part includes the administrative remedies under this chapter.

(4) An obligee INDIVIDUAL or a support enforcement agency may commence a proceeding authorized under this part by filing a petition in an appropriate initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state that has or can obtain personal jurisdiction over the respondent.

**NEW SECTION. Section 16. Action by a minor parent.** A minor parent or the guardian or other legal representative of a minor parent may maintain a proceeding on behalf of or for the benefit of the minor's child.

**NEW SECTION. Section 17. Application of law of this state.** Except as otherwise provided by this part, a responding tribunal of this state:

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

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

**Section 18.** Section 40-5-115, MCA, is amended to read:

"40-5-115. Duty Duties of initiating court tribunal. If the (1) Upon the filing of a petition authorized by this part, an initiating court finds that the petition sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or his property, it shall so certify and cause forward three copies of the petition and its certificate and one copy of this part to be sent accompanying documents:

(1)(A) to the responding court; Certification shall be in accordance with the requirements of the initiating state; If the name and address of the responding court is unknown and tribunal or appropriate support enforcement agency in the responding state; or

(2)(B) has an information agency comparable to that established in the initiating state; it shall cause the copies to be sent if the identity of the responding tribunal is unknown, to the state information agency or other proper official of the responding state, with a request that the agency or official forward them they be forwarded to the proper court and that the court of the responding state

acknowledge their appropriate tribunal and that receipt to the initiating court be acknowledged.

(2) THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES IS THE INITIATING TRIBUNAL FOR ANY ACTION OR PROCEEDING THAT MAY BE BROUGHT UNDER TITLE 40, CHAPTER 5, PARTS 2, 4, AND 5. IN ALL OTHER CASES, THE DISTRICT COURT IS THE INITIATING TRIBUNAL."

**NEW SECTION. Section 19.** Duties and powers of responding tribunal. (1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to [section 15(4)], it shall:

(a) in cases brought pursuant to title IV-B of the Social Security Act, proceed pursuant to 40-5-263; and

(b) in all other cases, cause the petition or pleading to be filed and notify the petitioner by first-class mail where and when it was filed.

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

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

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

(c) order income withholding;

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

3 (e) enforce orders by use of civil or criminal  
4 contempt, or both;

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

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

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

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

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

19 (k) award reasonable attorney fees and other fees and  
20 costs; and

21 (l) grant any other available remedy.

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

1 (4) A responding tribunal of this state may not  
2 condition the payment of a support order issued under this  
3 part upon a party's compliance with visitation provisions.

4 (5) If a responding tribunal of this state issues an  
5 order under this part, the tribunal shall send a copy of the  
6 order by first-class mail to the petitioner and the  
7 respondent and to the initiating tribunal, if any.

8 (6) THE DEPARTMENT OF SOCIAL AND REHABILITATION  
9 SERVICES IS THE RESPONDING TRIBUNAL FOR RECEIPT OF A  
10 PETITION OR COMPARABLE PROCEEDINGS FROM AN INITIATING STATE  
11 AS PROVIDED IN 40-5-263. IN ALL OTHER CASES, THE DISTRICT  
12 COURT IS THE RESPONDING TRIBUNAL.

13 NEW SECTION. Section 20. Inappropriate tribunal. If a  
14 petition or comparable pleading is received by an  
15 inappropriate tribunal of this state, it shall forward the  
16 pleading and accompanying documents to an appropriate  
17 tribunal in this state or another state and notify the  
18 petitioner by first-class mail where and when the pleading  
19 was sent.

20 NEW SECTION. Section 21. Duties of support enforcement  
21 agency. (1) A support enforcement agency of this state, upon  
22 application, shall provide services to a petitioner in a  
23 proceeding under this part.

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

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

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

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

(d) after receipt of a written notice from an initiating, responding, or registering tribunal, PROMPTLY send a copy of the notice by first-class mail to the petitioner;

(e) after receipt of a written communication from the respondent or the respondent's attorney, PROMPTLY send a copy of the communication by first-class mail to the petitioner; and

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

(3) This part does not create OR NEGATE a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

(4) FOR PURPOSES OF THIS PART, THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES IS THE SUPPORT ENFORCEMENT AGENCY FOR THIS STATE AS PROVIDED IN TITLE 40, CHAPTER 5,

PARTS 2, 4[, AND 5]. ALL THE PROVISIONS OF THIS PART MUST BE INTERPRETED AS SUPPLEMENTAL TO AND CUMULATIVE WITH THE DEPARTMENT'S POWERS AND DUTIES UNDER THOSE PROVISIONS. IN ALL OTHER CASES, THE COUNTY ATTORNEY IN THE COUNTY IN WHICH AN ACTION MUST BE FILED IS THE SUPPORT ENFORCEMENT AGENCY.

**Section 22.** Section 40-5-118, MCA, is amended to read:

**"40-5-118. State Duties of state information agency.**

(1) The state department of social and rehabilitation services is designated as the state information agency under this part.

(2) ~~it~~ The department shall:

(a) compile and maintain a current list, including addresses, of the courts-and-their--addresses tribunals in this state having that have jurisdiction under this part and of any support enforcement agencies in this state and transmit it a copy to the state information agency of every other state which--has--adopted--this--or--a-substantially similar-law--Upon-the-adjourment-of--each--session--of--the legislature--the--agency--shall--distribute--copies--of--any amendments--to--this-part-and-a-statement-of-their-effective date-to-all-other-state-information-agencies; and

(b) maintain a register of lists--of--courts tribunals and support enforcement agencies received--from of other states; and-transmit-copies-thereof-promptly-to-every--court in-this-state-having-jurisdiction-under-this-part;-and

{c}--forward--to--the--court--in--this--state--which--has jurisdiction over the obligor--or--his--property--petitions, certificates,--and--copies--of--the--reciprocal--enforcement--of support act--it--receives--from--courts--or--information--agencies of other states:

{3}--if--the--state--information--agency--does--not--know--the location of the obligor--or--his--property--in--the--state--and--no state--location--service--is--available,--it--shall--use--all--means at its disposal to obtain this--information,--including--the examination--of--official--records--in--the--state--and--other sources--such--as--telephone--directories,--real--property records,--vital--statistics--records,--police--records,--requests for the name and address from--employers--who--are--able--or willing--to--cooperate,--records--of--motor--vehicle--license offices,--requests--made--to--the--tax--offices--both--state--and federal--where--such--offices--are--able--to--cooperate,--and requests--made--to--the--social--security--administration--as permitted by the Social Security Act, as amended:

{4}--After--the--deposit--of--three--copies--of--the--petition and certificate and one copy of the--reciprocal--enforcement of support act of the initiating state with the clerk of the appropriate--court,--if--the--state--information--agency--knows--or believes--that--the--prosecuting--attorney--is--not--prosecuting the--case--diligently,--it--shall--inform--the--attorney--general who may undertake the representation:

(C) FORWARD TO THE APPROPRIATE TRIBUNAL IN THE PLACE IN THIS STATE IN WHICH THE INDIVIDUAL OBLIGEE OR THE OBLIGOR RESIDES OR IN WHICH THE OBLIGOR'S PROPERTY IS BELIEVED TO BE LOCATED ALL DOCUMENTS CONCERNING A PROCEEDING UNDER THIS PART RECEIVED FROM AN INITIATING TRIBUNAL OR THE STATE INFORMATION AGENCY OF THE INITIATING STATE; AND

(D) OBTAIN INFORMATION CONCERNING THE LOCATION OF THE OBLIGOR AND THE OBLIGOR'S PROPERTY WITHIN THIS STATE NOT EXEMPT FROM EXECUTION, BY SUCH MEANS AS POSTAL VERIFICATION AND FEDERAL OR STATE LOCATOR SERVICES, EXAMINATION OF TELEPHONE DIRECTORIES, REQUESTS FOR THE OBLIGOR'S ADDRESS FROM EMPLOYERS, AND EXAMINATION OF GOVERNMENTAL RECORDS, INCLUDING, TO THE EXTENT NOT PROHIBITED BY OTHER LAW, THOSE RELATING TO REAL PROPERTY, VITAL STATISTICS, LAW ENFORCEMENT, TAXATION, MOTOR VEHICLES, DRIVER'S LICENSES, AND SOCIAL SECURITY."

**Section 23.** Section 40-5-119, MCA, is amended to read:

"40-5-119. Duty of the--court--and--officials--of--this state--as--responding--state attorney general. {1}--After--the responding--court--receives--copies--of--the--petition, certificate,--and--reciprocal--enforcement--of--support--act--from the initiating court, the clerk of the--court--shall--docket the case and notify the prosecuting attorney of his action: {2}--The--prosecuting--attorney--shall--prosecute--the--case diligently. He shall take all action necessary in accordance

~~with the laws of this state to enable the court to obtain jurisdiction over the obligor or his property and shall request the court to set a time and place for a hearing and give notice thereof to the obligor in accordance with law.~~

{3} If the prosecuting attorney neglects or refuses to represent the obligee, the attorney general determines that a support enforcement agency is neglecting or refusing to provide services to an obligee INDIVIDUAL, the attorney general may order him the agency to comply with the request of the court perform its duties under this part or may undertake the representation provide those services directly to the obligee INDIVIDUAL."

NEW SECTION. Section 24. Private counsel. An obligee INDIVIDUAL may employ private counsel to represent the obligee INDIVIDUAL in proceedings authorized by this part.

NEW SECTION. Section 25. Pleadings and accompanying documents. (1) A petitioner who seeks to establish or modify a support order or to determine parentage in a proceeding under this part shall verify the petition. Unless otherwise ordered under [section 26], the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee and the name, sex, residential address, social security number, and date of birth of each child for whom support is sought. The petition must be

accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(2) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a title IV-D-of-the-Social-Security-Act SUPPORT ENFORCEMENT agency.

NEW SECTION. Section 26. Nondisclosure of information in exceptional circumstances. Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this part.

NEW SECTION. Section 27. Costs and fees. (1) ~~In cases brought pursuant to title IV-D-of-the-Social-Security-Act, costs and fees must be assessed as provided in 40-5-210~~ THE PETITIONER MAY NOT BE REQUIRED TO PAY A FILING FEE OR OTHER COSTS TO INITIATE A PROCEEDING UNDER THIS PART.

(2) ~~in all other cases, if~~ IF an obligee prevails, a responding tribunal may assess against an obligor the filing fees, reasonable attorney fees, other costs, and necessary

travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. Except as provided by other law, the tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state. Attorney fees may be taxed as costs and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of current support owed to the obligee has priority over fees, costs, and expenses.

(3) The tribunal shall order the payment of costs and reasonable attorney fees if it determines that a hearing was requested primarily for delay. In a proceeding under [sections 39 through 47] and 40-5-137, 40-5-140, 40-5-141, or 40-5-271, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

(4) THE STANDARDIZED SCHEDULE OF FEES ESTABLISHED BY THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES UNDER 40-5-210 IS CONCLUSIVE IN ANY ACTION UNDER THIS SECTION. ANY FEES OR COSTS RECOVERABLE UNDER SUBSECTION (2) THAT ARE NOT INCLUDED IN THE STANDARDIZED SCHEDULES ARE RECOVERABLE UNDER SUBSECTION (2).

**NEW SECTION. Section 28. Nonparentage as defense --**  
**limitation. A party whose parentage of a child has been**  
**finally PREVIOUSLY determined by a court order or decree, by**

~~an administrative order, or pursuant to law may not plead~~  
 nonparentage as a defense to a proceeding under this part.

**NEW SECTION. Section 29. Special rules of evidence and procedure.** (1) The physical presence of the petitioner in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or for the rendition of a judgment determining parentage.

(2) A verified petition, affidavit, or document substantially complying with federally mandated forms ~~for use by title IV-D of the Social Security Act agencies~~ and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

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

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

necessary, and customary.

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

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

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

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

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

NEW SECTION. **Section 30.** Communications between

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

NEW SECTION. **Section 31.** Assistance with discovery. A tribunal of this state may:

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

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

NEW SECTION. **Section 32.** Receipt and disbursement of payments. A support enforcement agency or tribunal of this state ~~authorized-by-law-to-receive--support--payments~~ shall disburse promptly any amounts received pursuant to a support order AS DIRECTED UNDER THIS PART. The agency or appropriate tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

NEW SECTION. **Section 33.** Petition to establish support order. (1) If a support order entitled to recognition under this part has not been issued, an appropriate responding

tribunal of this state may issue a support order if:

(a) the individual seeking the order resides in another state; or

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

(2) The tribunal may issue a temporary child support order if:

(a) the respondent has signed a verified statement acknowledging parentage;

(b) the respondent has been determined by or pursuant to law to be the parent; or

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

(3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to [section 19].

**NEW SECTION. Section 34. Administrative enforcement of orders.** ~~(1) If the department of social and rehabilitation services is providing services pursuant to title IV-B of the Social Security Act,~~ a party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to the department A SUPPORT ENFORCEMENT AGENCY OF THIS STATE.

(2) Upon receipt of the documents, the department SUPPORT ENFORCEMENT AGENCY, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the department SUPPORT ENFORCEMENT AGENCY shall register the order pursuant to ~~Title 40-Chapter 5-Part 2 or 4~~ THIS PART.

**Section 35.** Section 40-5-133, MCA, is amended to read:

"40-5-133. Effect---of---participation---in---proceeding Limited immunity of petitioner. (1) Participation by a petitioner in any a proceeding under this part before a responding tribunal, whether in person, by private attorney, or through services provided by a support enforcement agency, does not confer jurisdiction upon any court over any of the parties--thereto petitioner in any--other another proceeding.

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

(3) The immunity granted by this section does not extend to civil litigation based on acts that are unrelated

to a proceeding under this part and that are committed by a party while present in this state to participate in the proceeding."

**Section 36.** Section 40-5-137, MCA, is amended to read:

"40-5-137. Registration of order for enforcement. The obligee may register the foreign A support order in a court of or an income-withholding order issued by a tribunal of another state may be registered in this state in the manner, with the effect, and for the purposes herein provided for enforcement."

**Section 37.** Section 40-5-140, MCA, is amended to read:

"40-5-140. Registration--procedure-----notice Procedure to register order for enforcement. (1) An obligee seeking to register a foreign A support order or income-withholding order of another state may be registered in a court of this state;

(a)--in cases brought pursuant to title IV-B of the Social Security Act, as provided in part 2 of this chapter; and

(b) shall transmit in all other cases by sending the following documents and information to the clerk--of DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES PURSUANT TO 40-5-263 OR TO the DISTRICT court:

(i)(A) a letter of transmittal to the tribunal to request registration and enforcement;

(a)(ii)(B) three--certified two copies, including one certified copy, of the order with all modifications--thereof orders to be registered, including any modification of an order;

(b)--one copy of the reciprocal enforcement--of--support act of the state in which the order was made; and

(c)(iii)(C) a sworn statement, verified and signed by the obligee, showing the post office address of the obligee, party seeking registration or a certified statement by the custodian of the records, showing the amount of any arrearages;

(iv)(D) the name of the obligor and, if known:

(A)(I) the obligor's last known place of residence--and post office address of--the obligor; the amount of support remaining unpaid; and social security number;

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

(E)(III) a description and the location of any property of the obligor available upon in this state that is not exempt from execution; and a list of the states in which the order is registered; and

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

(2) Upon receipt of these documents the clerk of the

1 court a request for registration, without--payment-of-a  
 2 filing-fee-or-other-cost-to-the-obligee, shall file them--in  
 3 the---registry---of---foreign--support--orders--The--filing  
 4 constitutes registration under--this--part the registering  
 5 tribunal shall cause the order to be filed, together with  
 6 one copy of the documents and information, regardless of  
 7 their form.

8 (3) Promptly--upon--registration-the-clerk-of-the-court  
 9 shall send by certified or registered mail to the obligor at  
 10 the address given a notice of the registration with--a--copy  
 11 of--the-registered-support-order-and-the-post-office-address  
 12 of the obligee. He shall also docket the case and notify the  
 13 prosecuting attorney of his action. The prosecuting attorney  
 14 shall proceed diligently to enforce the order. A petition or  
 15 comparable pleading seeking a remedy that must be  
 16 affirmatively sought under other law of this state may be  
 17 filed either at the same time as the request for  
 18 registration or later. The pleading must specify the grounds  
 19 for the remedy sought."

20 **Section 38.** Section 40-5-141, MCA, is amended to read:

21 "40-5-141. Effect of registration -- enforcement  
 22 procedure. (1) Upon registration--the A support order or  
 23 income-withholding order issued in another state is  
 24 registered foreign support when the order shall--be--treated  
 25 in--the--same-manner-as-a-support-order-issued-by-a-court is

1 filed in a registering tribunal of this state.

2 (2) it has the same effect A registered order issued in  
 3 another state is enforceable in the same manner and is  
 4 subject to the same procedures, defenses, and proceedings  
 5 for reopening, vacating, or staying as a--support an order  
 6 issued by a tribunal of this state and may be enforced and  
 7 satisfied in like manner.

8 (2)--The obligor has 20 days after the mailing of notice  
 9 of the registration in which to petition the court to vacate  
 10 the registration or for other relief. If he does not so  
 11 petition, the registered support order is confirmed.

12 (3) At the hearing to enforce the registered support  
 13 order, the obligor may present only matters that would be  
 14 available to him as defenses in an action to enforce a  
 15 foreign money judgment. If he shows to the court that an  
 16 appeal from the order is pending or will be taken or that a  
 17 stay of execution has been granted, the court shall stay  
 18 enforcement of the order until the appeal is concluded, the  
 19 time for appeal has expired, or the order is vacated, upon  
 20 satisfactory proof that the obligor has furnished security  
 21 for payment of the support ordered as required by the  
 22 rendering state. If he shows to the court any ground upon  
 23 which enforcement of a support order of this state may be  
 24 stayed, the court shall stay enforcement of the order for an  
 25 appropriate period if the obligor furnishes the same

~~security-for-payment-of-the-support-ordered-that-is-required  
for-a-support-order--of--this--state. Except as otherwise  
provided in [sections 39 through 47] and 40-5-137, 40-5-140,  
and 40-5-141, a tribunal of this state shall recognize and  
enforce, but may not modify, a registered order if the  
issuing tribunal had jurisdiction."~~

**NEW SECTION. Section 39.** Choice of law. (1) The law of the issuing state governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.

(2) In a proceeding for arrearages, the statute of limitations under the laws of this state or of the issuing state, whichever is longer, applies.

**NEW SECTION. Section 40.** Notice of registration of order. (1) When a support order or income-withholding order issued in another state is registered, the registering tribunal shall notify the nonregistering party. Notice must be given by first-class or certified mail or by any means of personal service authorized by the law of this state. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) The notice must inform the nonregistering party:

(a) that a registered order is enforceable as of the date of registration in the same manner as an order issued

by a tribunal of this state;

(b) that a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after the date of mailing or personal service of the notice;

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

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

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

(d) of the amount of any alleged arrearages.

(3) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to Title 40, chapter 5, part 4.

**NEW SECTION. Section 41.** Procedure to contest validity or enforcement of registered order. (1) A nonregistering party seeking to contest the validity or enforcement of a registered order in this state shall request a hearing within 20 days after the date of mailing or personal service of notice of the registration. The nonregistering party may, pursuant to [section 42], seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the amount of any alleged arrearages.

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

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

**NEW SECTION. Section 42. Contest of registration or enforcement.** (1) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(a) the issuing tribunal lacked personal jurisdiction over the contesting party;

(b) the order was obtained by fraud;

(c) the order has been vacated, suspended, or modified by a later order;

(d) the issuing tribunal has stayed the order pending appeal;

(e) there is a defense under the law of this state to the remedy sought;

(f) full or partial payment has been made; or

(g) the statute of limitations under [section 39] precludes enforcement of some or all of the arrearages.

(2) If a party presents evidence establishing a full or partial defense under subsection (1), the registering tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

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

**NEW SECTION. Section 43. Confirmed order.** Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

**NEW SECTION. Section 44. Procedure to register child support order of another state for modification.** A party or support enforcement agency seeking to modify or to enforce a child support order issued in another state shall register that order in this state in the same manner provided in 40-5-137, 40-5-140, 40-5-141, [section 40], and 40-5-271 if the order has not been registered. A petition for modification may be filed either at the same time as a request for registration or later. The pleading must specify

the grounds for modification.

**NEW SECTION. Section 45.** Effect of registration for modification. A tribunal of this state may enforce a child support order of another state, registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state. However, the registered order may be modified only if the requirements of [section 46] have been met.

**NEW SECTION. Section 46.** Modification of child support order of another state. (1) After a child support order issued in another state has been registered in this state, the appropriate responding tribunal of this state may modify that order only if, after notice and hearing, it finds that:

(a) the following requirements are met:

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

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

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

(b) an individual party or the child is subject to the personal jurisdiction of the tribunal and all of the individual parties have filed in the issuing tribunal a written consent providing that the appropriate tribunal of this state may modify the support order and that this state

may assume continuing, exclusive jurisdiction over the order.

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

(3) A tribunal of this state may modify only a child support order. A tribunal may not modify provisions, such as custody, visitation, or other provisions not related to support.

(4) On issuance of an order modifying a child support order issued in another state, a tribunal of this state has continuing, exclusive jurisdiction.

(5) Within 30 days after issuance of a modified child support order, the tribunal issuing the modification shall file a certified copy of the order:

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

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

**NEW SECTION. Section 47.** Recognition of order modified in another state. A tribunal of this state shall recognize a modification of its earlier child support order by a tribunal of another state that assumed jurisdiction pursuant

to a law substantially similar to this part. Except as otherwise provided in this part, the tribunal of this state shall, upon request:

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

(2) enforce only nonmodifiable aspects of that order;

(3) provide other appropriate relief only for violations of the order that occurred before the effective date of the modification; and

(4) recognize and enforce the modifying order of the other state, upon request--or registration as provided in this part, FOR THE PURPOSE OF ENFORCEMENT.

**NEW SECTION. Section 48.** Proceeding to determine parentage. (1) A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under this part or a law substantially similar to this part, the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act to determine whether the petitioner is a parent of a particular child or to determine whether a respondent is a parent of that child.

(2) In a proceeding to determine parentage, a responding tribunal of this state shall apply the rules of this state on choice of law and:

(a) in cases brought pursuant to title IV-D of the

Social Security Act, the provisions of 40-5-231 through 40-5-237; and

(b) in all other cases, the provisions of Title 40, chapter 6, part 1.

(3) A PROCEEDING TO DETERMINE PARENTAGE DIRECTED TO:

(A) THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES FROM AN INITIATING STATE PURSUANT TO 40-5-263 AND 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

(B) A DISTRICT COURT FROM AN INITIATING STATE IS SUBJECT TO THE PROVISIONS OF TITLE 40, CHAPTER 6, PART 1.

**Section 49.** Section 40-5-142, MCA, is amended to read:

"40-5-142. Uniformity of interpretation. This part shall must be so construed as to effectuate its general purpose to make uniform the law of those with respect to the subject of this part among states which enact enacting it."

**Section 50.** Section 40-5-272, MCA, is amended to read:

"40-5-272. Application for review of child support orders. (1) Upon the application of the department, the obligor, or the obligee, a hearing officer appointed pursuant to 40-5-273 shall review support orders filed with the support order registry. The purpose of the review is to determine whether the support order should be modified in accordance with the guidelines.

(2) Jurisdiction to conduct the review and to issue a

1 modifying order under 40-5-273 is authorized when:

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

3 OR

4 (b) jurisdiction can be obtained as provided under  
5 40-4-210, or

6 ~~(c) the obligor resides in this state and the~~  
7 ~~department is providing IV-D enforcement services for the~~  
8 ~~order 40-5-231.~~

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

12 (4) Criteria constituting sufficient grounds for review  
13 of a child support order include:

14 (a) inconsistency with this state's guidelines, unless  
15 the inconsistency is considered negligible under department  
16 rules; or

17 (b) availability of health insurance coverage to the  
18 obligor's child through the obligor's employment or other  
19 group insurance.

20 (5) The department shall make available procedures and  
21 forms that allow the obligor or the obligee to complete the  
22 review process without legal counsel.

23 (6) To the extent that they are consistent with this  
24 section, the provisions of [sections 5, 9, and 10] apply to  
25 this section."

1 **Section 51.** Section 40-5-431, MCA, is amended to read:

2 **"40-5-431. Registration of interstate income**  
3 **withholding orders.** (1) Whenever an obligor, whether or not  
4 **he the obligor** resides in this state, derives income within  
5 this state and an order for income withholding of the  
6 obligor's income has been issued by a public agency of  
7 another state as a means to enforce support orders under  
8 Title IV-D of the Social Security Act, that agency may  
9 register the income withholding order with the department.  
10 Upon registration of the foreign withholding order, it must  
11 be treated in the same manner and have the same effect as an  
12 income withholding order issued by the department. The  
13 provisions of [sections 40 through 43] apply to this section  
14 to the extent that they are consistent with this section.

15 (2) The application for registration of a foreign order  
16 for income withholding must include:

17 (a) a certified copy of the support order, with all  
18 modifications thereof of the order;

19 (b) a certified copy of the income withholding order;

20 (c) a sworn statement of the facts entitling the agency  
21 to issue an income withholding order, including a statement  
22 of the amount of arrearages and a statement that all  
23 procedural due process requirements of the foreign  
24 jurisdiction for issuance of such the income withholding  
25 order have been carried out in full;

(d) the name, address, and social security number of the obligor;

(e) the name and address of the obligor's employer or of any other payor of income to the obligor if the order for income withholding of the foreign jurisdiction extends to such other income; and

(f) the name and address of the agency or person to whom support payments collected by the department under income withholding procedures should be transmitted.

(3) When the foreign income withholding order is registered, the department shall serve the order upon the payor, with directions to the payor to comply with the order and to deliver the withheld amounts to the department. Registration of a foreign income-withholding order under this section does not confer jurisdiction for any other purpose, such as modification of the support order, custody, or visitation.

**SECTION 52. SECTION 40-4-210, MCA, IS AMENDED TO READ:**

"40-4-210. Child support jurisdiction -- nonresident parent individual. A court of this state that is competent to decide child support matters may exercise personal jurisdiction over a nonresident parent individual or the individual's guardian or conservator in a child support determination in the initial or modification decree if:

(1) the ~~nonresident-parent-has-resided-with--the--child~~

in individual is personally served with notice within this state in accordance with Rule 4B, Montana Rules of Civil Procedure;

(2) ~~{a} the nonresident--parent--maintained--a-marital domicile-in-this-state-from-which-the-child-was-conceived-or adopted;-and~~

~~{b}--the-other-party--to--the--marital--relationship--or~~ individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document that has the effect of waiving any contest to personal jurisdiction;

(3) the individual has resided with the child resides within this state;

~~{3}~~(4) the child was conceived-or adopted within this state when at least one parent was a resident; or

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

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

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

~~{4}~~(8) there is any other basis consistent with the constitutions of this state and the United States for the exercise of the personal jurisdiction."

1 **SECTION 53. SECTION 40-5-202, MCA, IS AMENDED TO READ:**

2 "40-5-202. Department of social and rehabilitation  
3 services -- powers and duties regarding collection of  
4 support debt. (1) The department may take action under the  
5 provisions of this part, the abandonment or nonsupport  
6 statutes, the Uniform Parentage Act established in Title 40,  
7 chapter 6, part 1, and other appropriate state and federal  
8 statutes to ensure that the parent or other person  
9 responsible pays for the care, support, or maintenance of a  
10 child if the department:

11 (a) receives a referral from the department of social  
12 and rehabilitation services or the department of family  
13 services on behalf of the child;

14 (b) is providing child support enforcement services  
15 under 40-5-203; or

16 (c) receives an interstate referral, whether under the  
17 Revised Uniform Reciprocal Enforcement of Support Act, the  
18 Uniform Interstate Family Support Act, or an interstate  
19 action by a Title IV-D agency of another state.

20 (2) If the department is providing child support  
21 enforcement services for a child under this part, the  
22 department becomes trustee of any cause of action of the  
23 child or the obligee to recover support due to the child or  
24 obligee from the obligor. The department may bring and  
25 maintain the action in its own name or in the name of the

1 obligee.

2 (3) The department has the power of attorney to act in  
3 the name of any obligee to endorse and cash any and all  
4 drafts, checks, money orders, or other negotiable  
5 instruments received by the department on behalf of a child.

6 (4) For purposes of prosecuting any civil action, the  
7 department is a real party in interest if it is providing  
8 child support enforcement services under this part. No An  
9 obligee may not act to prejudice the rights of the  
10 department while such services are being provided.

11 (5) If child support enforcement services are being or  
12 have been provided under this part, no an agreement between  
13 any obligee and any obligor either relieving an obligor of  
14 any duty of support or purporting to settle past, present,  
15 or future support obligations either as settlement or  
16 prepayment may not act to reduce or terminate any rights of  
17 the department to recover from the obligor for support debt  
18 provided unless the department has consented to the  
19 agreement in writing.

20 (6) The department may petition a court or an  
21 administrative agency for modification of any order on the  
22 same basis as a party to that action is entitled to do.

23 (7) The department is subrogated to the right of the  
24 child or obligee to maintain any civil action or execute any  
25 administrative remedy available under the laws of this or

any other state to collect a support debt. This right of subrogation is in addition to and independent of the assignment under 53-2-613 and the support debt created by 40-5-221.

(8) If public assistance is being or has been paid, the department is subrogated to the debt created by a support order and any money judgment is considered to be in favor of the department. This subrogation is an addition to any assignment made under 53-2-613 and applies to the lesser of:

(a) the amount of public assistance paid; or

(b) the amount due under the support order.

(9) The department may adopt and enforce the rules necessary to carry out the provisions of this part.

(10) The department, for the purposes mentioned in this part, through its director or the director's authorized representatives, may administer oaths to certify official acts and records, issue subpoenas, and compel witnesses and the production of books, accounts, documents, and evidence."

**SECTION 54. SECTION 40-5-226, MCA, IS AMENDED TO READ:**

"40-5-226. Administrative hearing -- nature -- place -- time -- determinations -- failure to appear -- entry of final decision and order. (1) The administrative hearing is defined as a "contested case".

(2) At the discretion of the hearing officer, the administrative hearing may be held:

(a) in the county of residence or other county convenient to the obligor or obligee; or

(b) in the county in which the department or any of its offices are located.

(3) If a hearing is requested, it must be scheduled within 20 days.

(4) The hearing officer shall determine the liability and responsibility, if any, of the obligor under the notice and shall enter a final decision and order in accordance with such the determination.

(5) If the obligor fails to appear at the hearing or fails to timely request a hearing, the hearing officer, upon a showing of valid service, shall enter a decision and order declaring the amount stated in the notice to be final.

(6) In a hearing to determine financial responsibility, the monthly support responsibility must be determined in accordance with the evidence presented and with reference to the scale of suggested minimum contributions under 40-5-214. The hearing officer is not limited to the amounts stated in the notice.

(7) Within 20 days of the hearing, the hearing officer shall enter a final decision and order. The determination of the hearing officer constitutes a final agency decision, subject to judicial review under 40-5-253 and the provisions of the Montana Administrative Procedure

1 Act.

2 ~~†0†~~(7) A support order entered under this part must  
3 contain a statement that the order is subject to review and  
4 modification by the department upon the request of the  
5 department or a party under 40-5-271 through 40-5-273 when  
6 the department is providing services under IV-D for the  
7 enforcement of the order.

8 ~~†9†~~(8) A support debt determined pursuant to this  
9 section is subject to collection action without further  
10 necessity of action by the hearing officer.

11 ~~†10†~~(9) A support debt or a support responsibility  
12 determined under this part by reason of the obligor's  
13 failure to request a hearing under this part or failure to  
14 appear at a scheduled hearing may be vacated, upon the  
15 motion of an obligor, by the hearing officer within the time  
16 provided and upon a showing of any of the grounds enumerated  
17 in the Montana Rules of Civil Procedure.

18 ~~†11†~~(10) Unless the hearing officer makes a written  
19 exception under 40-5-315 or 40-5-411 and the exception is  
20 included in the support order, every order establishing a  
21 child support obligation, whether temporary or final, and  
22 each modification of an existing child support order under  
23 this part is enforceable by immediate or delinquency income  
24 withholding, or both, under Title 40, chapter 5, part 4. A  
25 support order that omits that provision or that provides for

1 a payment arrangement inconsistent with this section is  
2 nevertheless subject to withholding for the payment of  
3 support without need for an amendment of the support order  
4 or for any further action by the hearing officer.

5 ~~†12†~~(11) For the purposes of income withholding provided  
6 for in subsection ~~†11†~~ (10), whenever the department  
7 establishes or modifies a child support obligation, the  
8 department's order must include a provision requiring the  
9 obligor, for as long as the department is providing support  
10 enforcement services, to keep the department informed of the  
11 name and address of the obligor's current employer, whether  
12 the obligor has access to health insurance through an  
13 employer or other group, and, if so, the health insurance  
14 policy information."

15 **SECTION 55. SECTION 40-5-231, MCA, IS AMENDED TO READ:**

16 "40-5-231. Establishment-of-paternity-----jurisdiction  
17 Jurisdiction and venue. (1) For purposes of an  
18 administrative action brought under ~~40-5-231--through~~  
19 ~~40-5-237~~ this part, personal jurisdiction is established in  
20 the department over any person--who--has--had--sexual  
21 intercourse-in-this-state-that-has-resulted-in-the-birth--of  
22 a--child-who-is-the-subject-of-such-proceedings-and-over-any  
23 person-subject-to-the-provisions-of-Rule-4B-of--the--Montana  
24 Rules--of--Civil-Procedure--including-but-not-limited-to-the  
25 child,-the-child's-parents,-any-person-having-custody-of-the

1 child, and any alleged father individual or the individual's  
 2 guardian or conservator if:

3 (a) the individual is personally served with notice  
 4 within this state;

5 (b) the individual submits to the jurisdiction of this  
 6 state by consent, by entering a general appearance, or by  
 7 filing a responsive document that has the effect of waiving  
 8 any contest to personal jurisdiction;

9 (c) the individual resided with the child in this  
 10 state;

11 (d) the individual resided in this state and provided  
 12 prenatal expenses or support for the child;

13 (e) the child resides in this state as a result of the  
 14 acts or directives of the individual;

15 (f) the individual engaged in sexual intercourse in  
 16 this state and the child may have been conceived by the act  
 17 of intercourse; or

18 (g) there is any other basis consistent with the  
 19 constitutions of this state and the United States for the  
 20 exercise of personal jurisdiction.

21 (2) Personal jurisdiction over the persons individuals  
 22 described in subsection (1) may be acquired by personal  
 23 service or by service of notice by certified mail.

24 (3) If the child or either parent resides in this  
 25 state, a hearing under ~~40-5-231 through 40-5-237~~ this part

1 may be held in the county where:

2 (a) the child resides;

3 (b) either parent resides; or

4 (c) the department or any of its regional offices is  
 5 located."

6 **SECTION 56. SECTION 40-5-263, MCA, IS AMENDED TO READ:**

7 **"40-5-263. Central clearinghouse -- interstate**  
 8 **enforcement services -- powers and duties of the department.**

9 (1) The department shall establish a clearinghouse for the  
 10 registration of all interstate IV-D cases referred to the  
 11 department by other states. The clearinghouse shall serve as  
 12 the central point for the receipt and dissemination of  
 13 information regarding interstate enforcement requests,  
 14 including but not limited to:

15 (a) petitions under the Revised Uniform Reciprocal  
 16 Enforcement of Support Act or the Uniform Interstate Family  
 17 Support Act; and

18 (b) wage withholding requests under part 4 of this  
 19 chapter.

20 (2) (a) A case must be referred to the clearinghouse to  
 21 be processed as a IV-D case and receive the benefits of IV-D  
 22 status and clearinghouse services.

23 (b) The clearinghouse may accept any interstate IV-D  
 24 referral made by interstate application or by petition under  
 25 the Revised Uniform Reciprocal Enforcement of Support Act or

1 the Uniform Interstate Family Support Act. An application  
2 must be made on forms prescribed by the department.

3 (3) Upon certification by the initiating state that a  
4 case filed in the registry of foreign support orders,  
5 including a petition under the Revised Uniform Reciprocal  
6 Enforcement of Support Act or the Uniform Interstate Family  
7 Support Act, is eligible for IV-D services and that the  
8 obligor resides, has property, or derives income in this  
9 state, the department may establish or enforce a child  
10 support obligation by any appropriate statute, including the  
11 remedies in this chapter.

12 (4) If necessary, the department shall establish the  
13 paternity of the child.

14 (5) The clearinghouse shall:

15 (a) review and acknowledge receipt of any interstate  
16 IV-D referral;

17 (b) request missing information from the initiating  
18 state;

19 (c) determine appropriate enforcement remedies and  
20 forward the referral to the appropriate enforcement unit;

21 (d) provide status updates to the initiating state,  
22 including the location of the responsible enforcement unit;

23 (e) locate an obligor and the obligor's assets, if  
24 necessary; and

25 (f) initiate a IV-D referral if services are provided

1 by the department to a resident of this state and the  
2 obligor resides outside the state.

3 (6) If the department is providing support enforcement  
4 services to a resident of this state, the director or his  
5 the director's designee may certify any interstate petition,  
6 application, and referral, including a petition under part 1  
7 of this chapter."

8 **SECTION 57. SECTION 40-6-109, MCA, IS AMENDED TO READ:**

9 "40-6-109. Jurisdiction -- venue. (1) The district  
10 court has jurisdiction of an action brought under this part.  
11 The action may be joined with an action for dissolution,  
12 annulment, separate maintenance, support, or adoption.

13 (2) For purposes of an action brought under this part,  
14 personal jurisdiction is established in the courts of this  
15 state over ~~any person who has had sexual intercourse in this~~  
16 ~~state which has resulted in the birth of a child who is the~~  
17 ~~subject of such proceedings, in addition to any other method~~  
18 ~~provided by rule or statute, personal jurisdiction may be~~  
19 ~~acquired by service in accordance with Rule 4B of the~~  
20 ~~Montana Rules of Civil Procedure~~ an individual or the  
21 individual's guardian or conservator, if:

22 (a) the individual is personally served within this  
23 state in accordance with Rule 4B, Montana Rules of Civil  
24 Procedure;

25 (b) the individual submits to the jurisdiction of this

1 state by consent, by entering a general appearance, or by  
 2 filing a responsive document that has the effect of waiving  
 3 any contest to personal jurisdiction;

4 (c) the individual resided with the child in this  
 5 state;

6 (d) the individual resided in this state and provided  
 7 prenatal expenses or support for the child;

8 (e) the child resides in this state as a result of the  
 9 acts or directives of the individual;

10 (f) the individual engaged in sexual intercourse in  
 11 this state and the child may have been conceived by that act  
 12 of intercourse; or

13 (g) there is any other basis consistent with the  
 14 constitutions of this state and the United States for the  
 15 exercise of personal jurisdiction.

16 (3) The action may be brought in the county in which  
 17 the child or the alleged father resides or is found or, if  
 18 the father is deceased, in which proceedings for probate of  
 19 his the father's estate have been or could be commenced."

20 **NEW SECTION. Section 58. Repealer.** Sections 40-5-102,  
 21 40-5-105, 40-5-108, 40-5-109, 40-5-110, 40-5-111, 40-5-112,  
 22 40-5-113, 40-5-114, 40-5-116, 40-5-117, 40-5-120, 40-5-121,  
 23 40-5-122, 40-5-123, 40-5-124, 40-5-125, 40-5-126, 40-5-127,  
 24 40-5-128, 40-5-129, 40-5-130, 40-5-131, 40-5-132, 40-5-134,  
 25 40-5-135, 40-5-136, 40-5-138, and 40-5-139, MCA, are

1 repealed.

2 **NEW SECTION. Section 59. Severability.** If a part of  
 3 [this act] is invalid, all valid parts that are severable  
 4 from the invalid part remain in effect. If a part of [this  
 5 act] is invalid in one or more of its applications, the part  
 6 remains in effect in all valid applications that are  
 7 severable from the invalid applications.

8 **NEW SECTION. SECTION 60. COORDINATION. IF NEITHER**  
 9 **SENATE BILL NO. 217 NOR HOUSE BILL NO. 482 IS PASSED AND**  
 10 **APPROVED, THEN THE BRACKETED LANGUAGE IN [SECTION 18(3) AND**  
 11 **SECTION 21(4)] IS VOID AND THE CODE COMMISSIONER SHALL MAKE**  
 12 **NECESSARY CHANGES IN GRAMMAR.**

13 **NEW SECTION. Section 61. Codification instruction.**  
 14 [Sections 3, 5 through 12, 15 through 17, 19 through 21, 24  
 15 through 34, and 39 through 48] are intended to be codified  
 16 as an integral part of Title 40, chapter 5, part 1, and the  
 17 provisions of Title 40, chapter 5, part 1, apply to  
 18 [sections 3, 5 through 12, 15 through 17, 19 through 21, 24  
 19 through 34, and 39 through 48].

-End-

## HOUSE BILL NO. 228

INTRODUCED BY TOOLE, LARSON, FAGG

A BILL FOR AN ACT ENTITLED: "AN ACT REPLACING THE REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT WITH THE UNIFORM INTERSTATE FAMILY SUPPORT ACT; CLARIFYING THAT ONLY ONE STATE HAS JURISDICTION TO MODIFY A SUPPORT AWARD AT ANY TIME; REVISING PRINCIPLES OF INTERSTATE JURISDICTION AND CLARIFYING THE JURISDICTION OF THE HOME STATE OF A CHILD; EXTENDING CHILD SUPPORT ENFORCEMENT PROVISIONS TO SPOUSAL SUPPORT; AMENDING SECTIONS 40-4-210, 40-5-101, 40-5-103, 40-5-104, 40-5-106, 40-5-107, 40-5-115, 40-5-118, 40-5-119, 40-5-133, 40-5-137, 40-5-140, 40-5-141, 40-5-142, 40-5-202, 40-5-226, 40-5-231, 40-5-263, 40-5-272, AND 40-5-431, AND 40-6-109, MCA; AND REPEALING SECTIONS 40-5-102, 40-5-105, 40-5-108, 40-5-109, 40-5-110, 40-5-111, 40-5-112, 40-5-113, 40-5-114, 40-5-116, 40-5-117, 40-5-120, 40-5-121, 40-5-122, 40-5-123, 40-5-124, 40-5-125, 40-5-126, 40-5-127, 40-5-128, 40-5-129, 40-5-130, 40-5-131, 40-5-132, 40-5-134, 40-5-135, 40-5-136, 40-5-138, AND 40-5-139, MCA."

WHEREAS, THE UNITED STATES COMMISSION ON INTERSTATE CHILD SUPPORT AND THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS INTEND [SECTION 21] TO REQUIRE A STATE SUPPORT ENFORCEMENT AGENCY, IN A UNIFORM INTERSTATE FAMILY

SUPPORT ACT (UIFSA) PROCEEDING, TO PROVIDE LOCATOR SERVICES UPON THE REQUEST OF ANY INDIVIDUAL; AND

WHEREAS, THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES IS CHARGED UNDER [SECTION 21] WITH PROVIDING LOCATOR SERVICES AND DOES NOT RECEIVE A STATE GENERAL FUND APPROPRIATION FOR PROVIDING LOCATOR SERVICES; AND

WHEREAS, IN ENACTING [SECTION 21] THE LEGISLATURE OF THE STATE OF MONTANA INTENDS THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES TO ESTABLISH A FEE SCHEDULE UNDER 40-5-210 FOR LOCATOR SERVICES PROVIDED TO AN INDIVIDUAL UNDER [SECTION 21].

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

**Section 1.** Section 40-5-101, MCA, is amended to read:

"40-5-101. Short title. This part may be cited as the "Revised Uniform Reciprocal-Enforcement-of Interstate Family Support Act (1968)"."

**Section 2.** Section 40-5-103, MCA, is amended to read:

THERE ARE NO CHANGES IN THIS BILL  
AND WILL NOT BE REPRINTED. PLEASE  
REFER TO YELLOW COPY FOR COMPLETE TEXT.

## 1 HOUSE BILL NO. 228

2 INTRODUCED BY TOOLE, LARSON, FAGG

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT REPLACING THE REVISED  
5 UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT WITH THE  
6 UNIFORM INTERSTATE FAMILY SUPPORT ACT; CLARIFYING THAT ONLY  
7 ONE STATE HAS JURISDICTION TO MODIFY A SUPPORT AWARD AT ANY  
8 TIME; REVISING PRINCIPLES OF INTERSTATE JURISDICTION AND  
9 CLARIFYING THE JURISDICTION OF THE HOME STATE OF A CHILD;  
10 EXTENDING CHILD SUPPORT ENFORCEMENT PROVISIONS TO SPOUSAL  
11 SUPPORT; AMENDING SECTIONS 40-4-210, 40-5-101, 40-5-103,  
12 40-5-104, 40-5-106, 40-5-107, 40-5-115, 40-5-118, 40-5-119,  
13 40-5-133, 40-5-137, 40-5-140, 40-5-141, 40-5-142, 40-5-202,  
14 40-5-226, 40-5-231, 40-5-263, 40-5-272, AND 40-5-431, AND  
15 40-6-109, MCA; AND REPEALING SECTIONS 40-5-102, 40-5-105,  
16 40-5-108, 40-5-109, 40-5-110, 40-5-111, 40-5-112, 40-5-113,  
17 40-5-114, 40-5-116, 40-5-117, 40-5-120, 40-5-121, 40-5-122,  
18 40-5-123, 40-5-124, 40-5-125, 40-5-126, 40-5-127, 40-5-128,  
19 40-5-129, 40-5-130, 40-5-131, 40-5-132, 40-5-134, 40-5-135,  
20 40-5-136, 40-5-138, AND 40-5-139, MCA."

21  
22 WHEREAS, THE UNITED STATES COMMISSION ON INTERSTATE  
23 CHILD SUPPORT AND THE NATIONAL CONFERENCE OF COMMISSIONERS  
24 ON UNIFORM STATE LAWS INTEND [SECTION 21] TO REQUIRE A STATE  
25 SUPPORT ENFORCEMENT AGENCY, IN A UNIFORM INTERSTATE FAMILY

1 SUPPORT ACT (UIFSA) PROCEEDING, TO PROVIDE LOCATOR SERVICES  
2 UPON THE REQUEST OF ANY INDIVIDUAL; AND

3 WHEREAS, THE DEPARTMENT OF SOCIAL AND REHABILITATION  
4 SERVICES IS CHARGED UNDER [SECTION 21] WITH PROVIDING  
5 LOCATOR SERVICES AND DOES NOT RECEIVE A STATE GENERAL FUND  
6 APPROPRIATION FOR PROVIDING LOCATOR SERVICES; AND

7 WHEREAS, IN ENACTING [SECTION 21] THE LEGISLATURE OF THE  
8 STATE OF MONTANA INTENDS THE DEPARTMENT OF SOCIAL AND  
9 REHABILITATION SERVICES TO ESTABLISH A FEE SCHEDULE UNDER  
10 40-5-210 FOR LOCATOR SERVICES PROVIDED TO AN INDIVIDUAL  
11 UNDER [SECTION 21].

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

14 **Section 1.** Section 40-5-101, MCA, is amended to read:

15 "40-5-101. Short title. This part may be cited as the  
16 "Revised Uniform Reciprocal-Enforcement-of Interstate Family  
17 Support Act {1968}."

18 **Section 2.** Section 40-5-103, MCA, is amended to read:

19 "40-5-103. Definitions. (1) "Court"--means-the--district  
20 court--of--this--state-and, when the context requires, means  
21 the court of any other state as defined in--a--substantially  
22 similar-reciprocal-law. "Child" means an individual, whether  
23 over or under the age of majority, who is or is alleged to  
24 be owed a duty of support by the individual's parent or who  
25 is or is alleged to be the beneficiary of a child support

1 order directed to the parent.

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

5 (3) "Duty of support":

6 (a) means an obligation a--duty--of--support--whether  
7 imposed or imposable by law or-by-order,-decree,-or-judgment  
8 of--any--court,-whether--interlocutory-or-final,-or-whether  
9 incidental-to-an-action-for--divorce,-separation,-separate  
10 maintenance,-or--otherwise--and--includes--the--duty-to-pay  
11 arreages-of-support-past-due-and-unpaid to provide support  
12 for a child, spouse, or former spouse; and

13 (b) includes an unsatisfied obligation to provide  
14 support.

15 (4) "Governor" includes any--person an individual  
16 performing the functions of governor or the executive  
17 authority of any state covered by this part.

18 (5) "Home state" means the state in which a child lived  
19 with a parent or a person acting as parent for at least 6  
20 consecutive months immediately preceding the time of filing  
21 of a petition or comparable pleading for support and, if a  
22 child is less than 6 months old, the state in which the  
23 child lived from birth with a parent or person acting as  
24 parent. A period of temporary absence of a parent or person  
25 acting as parent is counted as part of the 6-month or other

1 period.

2 (6) "Income" includes:

3 (a) earnings or other periodic entitlements to money  
4 from any source; and

5 (b) any other property subject to withholding for  
6 support under the law of this state.

7 (7) "Income-withholding order" means an order or other  
8 legal process directed to an obligor's employer, as provided  
9 in Title 40, chapter 5, parts 3 and 4, or by a tribunal of  
10 another state to withhold support from the income of the  
11 obligor.

12 (8) "Initiating state" means a state in which a  
13 proceeding pursuant to this part--an--interstate--referral  
14 pursuant--to-title-IV-B-of-the-Social-Security-Act or a law  
15 substantially similar reciprocal-law-is--commenced to this  
16 part, the Uniform Reciprocal Enforcement of Support Act, or  
17 the Revised Uniform Reciprocal Enforcement of Support Act,  
18 OR A PROCEEDING INITIATED BY THE DEPARTMENT OF SOCIAL AND  
19 REHABILITATION SERVICES UNDER 40-5-263 is filed for  
20 forwarding to a responding state.

21 (9) "Initiating court tribunal" means the court-in  
22 which-a-proceeding-is-commenced authorized tribunal in an  
23 initiating state.

24 (10) "Issuing state" means the state in which a tribunal  
25 issues a support order or renders a judgment determining

parentage.

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

(5)(12) "Law" includes both--common decisional and statutory law and rules and regulations having the force of law.

(6)(13) "Obligee" means:

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

(b) a person---including---a state or political subdivision---that-has-commenced-a-proceeding-for-enforcement-of-an-alleged to which the rights under a duty of support or for--registration--of a support order have been assigned; OR that has independent claims based on financial assistance provided to an individual obligee; or that has received an application or interstate referral for services under--title IV-B-of-the-Social-Security-Act; or; it is immaterial if the person--to-whom-a-duty-of-support-is-owed-is-a-recipient-of public assistance

(c) an individual or a state or--political--subdivision seeking a judgment determining parentage of that individual's child or a child receiving services under title

~~IV-B-of-the-Social-Security-Act.~~

(7)(14) "Obligor" means an individual or the estate of a decedent:

(a) any--person--owing who owes or is alleged to owe a duty of support; or--against-whom--a--proceeding--for--the enforcement-of-a-duty-of-support-or-registration-of

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

(c) who is liable under a support order is-commenced.

(8)(15) "Prosecuting attorney" means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person. ~~in-cases-that-do-not-involve-title IV-B-of-the-Social-Security-Act; the county attorney is--the prosecuting attorney.~~

(9)(16) "Register" means to file a support order or judgment determining parentage in the registry of foreign support orders.

(10)(17) "Registering court tribunal" means any court of this--state a tribunal in which a support order of a rendering state is registered.

(11)(18) "Rendering Responding state" means a state in to which the--court--has--issued-a-support-order-for-which registration-is-sought-or-granted-in-the--court--of--another state a proceeding is forwarded under this party--an

~~interstate-referral-pursuant-to-title--IV-B--of--the--Social~~  
~~Security--Act,~~ or a law substantially similar to this part,  
 the Uniform Reciprocal Enforcement of Support Act, or the  
 Revised Uniform Reciprocal Enforcement of Support Act, OR A  
 PROCEEDING INITIATED BY THE DEPARTMENT OF SOCIAL AND  
 REHABILITATION SERVICES UNDER 40-5-263.

~~{12}~~(19) "Responding court tribunal" means the court-in  
 which-the--responsive--proceeding--is--commenced authorized  
tribunal in a responding state.

~~{13}~~"Responding--state"--means--a--state--in--which--any  
 responsive-proceeding-pursuant--to--the--proceeding--in--the  
 initiating-state-is-commenced.

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

~~{14}~~(21) "State" includes means a state, territory, or  
 possession of the United States, the District of Columbia,  
 the Commonwealth of Puerto Rico, or any territory or insular  
 possession subject to the jurisdiction of the United States.  
 The term "state" includes an Indian tribe and any includes a  
 foreign jurisdiction in-which-this-or-a that has established  
 procedures for issuance and enforcement of support orders  
 that are substantially similar reciprocal-law-is--in--effect  
 to the procedures under this part.

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

- (i) enforcement of support orders or laws relating to  
 the duty of support;
- (ii) establishment or modification of child support;
- (iii) a determination of parentage; or
- (iv) to locate obligors or their assets.
- (b) Support enforcement agency includes:
  - (i) in cases brought under title IV-D of the Social  
 Security Act, the department of social and rehabilitation  
 services; and
  - (ii) in all other cases, the prosecuting attorney.
- ~~{15}~~(23) "Support order" means any a judgment, decree,  
 or order, of--support--in--favor--of--an--obligee whether  
 temporary, or final, or subject to modification, revocation,  
 or remission, regardless-of-the-kind-of-action-or-proceeding  
 in-which-it-is-entered that is for the benefit of a child, a  
 spouse or a former spouse, or a state or political  
 subdivision; that provides for monetary support, health  
 care, health-insurance, arrearages, or reimbursement; and  
 that may include related costs and fees, interest, income  
 withholding, attorney fees, and other relief.

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

NEW SECTION. Section 3. Tribunals of this state. The  
 district courts and the department of social and

rehabilitation services are the tribunals of this state. For cases--brought-pursuant-to-title-IV-B-of-the-Social-Security Act; the department of social and rehabilitation services is the appropriate tribunal unless the department, acting as a support---enforcement---agency,---initiates---proceedings---in district court; in all other cases, a district court is the appropriate tribunal.

**Section 4.** Section 40-5-104, MCA, is amended to read:

"40-5-104. Remedies additional--to--those now existing cumulative. The remedies herein Remedies provided in this part are in--addition--to cumulative and do not affect in substitution for any other the availability of remedies under other law."

**NEW SECTION. Section 5.** Bases for jurisdiction over nonresident. In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

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

(2) the individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3) the individual resided with the child in this state;

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

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

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

(7) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

**NEW SECTION. Section 6.** Procedure when exercising jurisdiction over nonresident. A tribunal of this state exercising personal jurisdiction over a nonresident pursuant to [section 5] may apply [section 29] to receive evidence from another state and [section 31] to obtain discovery through a tribunal of another state. In all other respects, [sections 15 through 17, 19 through 21, 24 through 34, and 39 through 48] and 40-5-115, 40-5-118, 40-5-119, 40-5-133, 40-5-137, 40-5-140, and 40-5-141 do not apply and the tribunal shall apply the procedural and substantive law of this state, including the rules on choice of law other than those established by this part.

**NEW SECTION. Section 7.** Initiating and responding

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

NEW SECTION. Section 8. Simultaneous proceedings in another state. (1) A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state only if:

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

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

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

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

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

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

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

~~(3) As used in this section, a "comparable pleading" includes an action initiated by the department of social and rehabilitation services under this chapter or by an administrative agency of another state that has a hearing function and process similar to those of the department.~~

NEW SECTION. Section 9. Continuing, exclusive jurisdiction.

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

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

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

(2) A tribunal of this state issuing a child support order consistent with the law of this state may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another state pursuant to

1 a law substantially similar to this part.

2 (3) If a child support order of this state is modified  
3 by a tribunal of another state that--has--acquired  
4 jurisdiction-consistent-with PURSUANT TO A LAW SUBSTANTIALLY  
5 SIMILAR TO this part, a tribunal of this state loses its  
6 continuing, exclusive jurisdiction with regard to  
7 prospective enforcement of the order issued in this state  
8 and may only:

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

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

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

15 (4) A tribunal of this state shall recognize the  
16 continuing, exclusive jurisdiction of a tribunal of another  
17 state that has acquired-jurisdiction-consistent-with-this  
18 part-and-that-has issued a child support order pursuant to a  
19 law substantially similar to this part.

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

24 (6) A tribunal of this state issuing a support order  
25 consistent with the law of this state has continuing,

1 exclusive jurisdiction over a spousal support order  
2 throughout the existence of the support obligation. A  
3 tribunal of this state may not modify a spousal support  
4 order issued by a tribunal of another state having  
5 continuing, exclusive jurisdiction over that order under the  
6 law of that state.

7 NEW SECTION. Section 10. Enforcement and modification  
8 of support order by tribunal having continuing jurisdiction.  
9 (1) A tribunal of this state may serve as an initiating  
10 tribunal to request a tribunal of another state to enforce  
11 or modify a support order issued in that state.

12 (2) ~~if---this---state---has---continuing,---exclusive~~  
13 ~~jurisdiction--over--a-support-order,--an-appropriate-tribunal~~  
14 ~~may-act-as-a-responding-tribunal-to-enforce--or--modify--the~~  
15 ~~order.~~ A tribunal of this state that has continuing,  
16 exclusive jurisdiction over a support order may act as a  
17 responding tribunal to enforce or modify the order of  
18 another state. If a party subject to the continuing,  
19 exclusive jurisdiction of the tribunal no longer resides in  
20 the issuing state, in subsequent proceedings the tribunal  
21 may apply [section 29] to receive evidence from another  
22 state and [section 31] to obtain discovery through a  
23 tribunal of another state.

24 (3) ~~if---this---state---lacks---continuing,---exclusive~~  
25 ~~jurisdiction-over-a-spousal-support-order,--a~~ A tribunal of

1 this state THAT LACKS CONTINUING, EXCLUSIVE JURISDICTION  
 2 OVER A SPOUSAL SUPPORT ORDER may not serve as a responding  
 3 tribunal to modify a spousal support order of another state.

4 NEW SECTION. Section 11. Recognition of child support  
 5 orders. (1) If a proceeding is brought under this part and  
 6 one or more child support orders have been issued in this or  
 7 another state with regard to an obligor and a child, a  
 8 tribunal of this state shall apply the following rules in  
 9 determining which order to recognize for purposes of  
 10 continuing, exclusive jurisdiction:

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

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

18 (c) If two or more tribunals have issued child support  
 19 orders for the same obligor and child and more than one of  
 20 the tribunals would have continuing, exclusive jurisdiction  
 21 under this part, an order issued by a tribunal in the  
 22 current home state of the child must be recognized. However,  
 23 if an order has not been issued in the current home state of  
 24 the child, the order most recently issued must be  
 25 recognized.

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

6 (2) The tribunal that has issued an order recognized  
 7 under subsection (1) is the tribunal having continuing,  
 8 exclusive jurisdiction.

9 NEW SECTION. Section 12. Multiple child support orders  
 10 for two or more obligees. In responding to multiple  
 11 registrations or petitions for enforcement of two or more  
 12 child support orders in effect at the same time with regard  
 13 to the same obligor and different individual obligees, at  
 14 least one of which orders was issued by a tribunal of  
 15 another state, a tribunal of this state shall enforce those  
 16 orders in the same manner as if the multiple orders had been  
 17 issued by a tribunal of this state.

18 Section 13. Section 40-5-106, MCA, is amended to read:

19 "40-5-106. Interstate Grounds for rendition. (1) The  
 20 governor of this state may:

21 (1)(a) demand of the governor of another state the  
 22 surrender of a person an individual found in that the other  
 23 state who is charged criminally in this state with failing  
 24 to provide for the support of any person a child or to pay  
 25 support to an obligee; or

1     ~~(2)(b)~~ surrender on demand by the governor of another  
 2     state, surrender a person an individual found in this state  
 3     who is charged criminally in that state with failing to  
 4     provide for the support of any person a child or to pay  
 5     support to an obligee.

6     (2) Provisions A provision for extradition of criminals  
 7     individuals that is not inconsistent with this part apply  
 8     applies to the demand even if the person individual whose  
 9     surrender is demanded was not in the demanding state at the  
 10    time of the commission of when the crime was allegedly  
 11    committed and has not fled therefrom from the demanding  
 12    state. The demand, the oath, and any proceedings for  
 13    extradition pursuant to this section need not state or show  
 14    that the person whose surrender is demanded has fled from  
 15    justice or at the time of the commission of the crime was in  
 16    the demanding state."

17    Section 14. Section 40-5-107, MCA, is amended to read:

18    "40-5-107. Conditions of interstate rendition. (1)  
 19    Before making the a demand upon that the governor of another  
 20    state ~~for the surrender of a person~~ an individual charged  
 21    criminally in this state with failing having failed to  
 22    provide for the support of ~~a person~~ a child or to pay  
 23    support to an obligee, the governor of this state may  
 24    require any prosecuting attorney of this state to satisfy  
 25    him demonstrate:

1     (a) that at least 60 days prior thereto previously, the  
 2     obligee had initiated proceedings for support under pursuant  
 3     to this part; or

4     (b) that any the proceeding would be of no avail.

5     (2) If, under this part or a law substantially similar  
 6     law to this part, the Uniform Reciprocal Enforcement of  
 7     Support Act, or the Revised Uniform Reciprocal Enforcement  
 8     of Support Act, the governor of another state makes a demand  
 9     upon that the governor of this state for the surrender of a  
 10    person an individual charged criminally in that state with  
 11    failure having failed to provide for the support of a person  
 12    child or to pay support to an obligee, the governor of this  
 13    state may require any a prosecuting attorney to investigate  
 14    the demand and to report to him whether proceedings a  
 15    proceeding for support have has been initiated or would be  
 16    effective. If it appears to the governor that a proceeding  
 17    would be effective but has not been initiated, he the  
 18    governor of this state may delay honoring the demand for a  
 19    reasonable time to permit the initiation of a proceeding.

20     (3) If proceedings have a proceeding for support has  
 21     been initiated and the person demanded has prevailed therein  
 22     individual whose rendition is demanded prevails, the  
 23     governor of this state may decline to honor the demand. If  
 24     the obligee prevailed petitioner prevails and the person  
 25     individual whose rendition is demanded is subject to a

support order, the governor of this state may decline to honor the demand if the person--demanded individual is complying with the support order."

**NEW SECTION. Section 15. Proceedings under this part.**

(1) Except as otherwise provided in this part, [sections 15 through 17, 19 through 21, 24 through 32, and 34] and 40-5-115, 40-5-118, 40-5-119, and 40-5-133 apply to all proceedings under this part.

(2) This part provides for the following proceedings:

(a) establishment of an order for spousal support or child support pursuant to [section 33];

(b) enforcement of a support order and income-withholding order of another state without registration;

(c) registration of an order for spousal support or child support of another state for enforcement pursuant to [sections 39 through 47] and 40-5-137, 40-5-140, and 40-5-141;

(d) modification of an order for child support or spousal support issued by a tribunal of this state pursuant to [sections 7 through 10];

(e) registration of an order for child support of another state for modification pursuant to [sections 39 through 47] and 40-5-137, 40-5-140, and 40-5-141;

(f) determination of parentage pursuant to [section

48]; and

(g) assertion of jurisdiction over nonresidents pursuant to [sections 5 and 6].

(3) If the tribunal is the department of social and rehabilitation services, this part includes the administrative remedies under this chapter.

(4) An obligee INDIVIDUAL or a support enforcement agency may commence a proceeding authorized under this part by filing a petition in an appropriate initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state that has or can obtain personal jurisdiction over the respondent.

**NEW SECTION. Section 16. Action by a minor parent. A minor parent or the guardian or other legal representative of a minor parent may maintain a proceeding on behalf of or for the benefit of the minor's child.**

**NEW SECTION. Section 17. Application of law of this state. Except as otherwise provided by this part, a responding tribunal of this state:**

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

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

**Section 18.** Section 40-5-115, MCA, is amended to read:

"40-5-115. Duty Duties of initiating court tribunal. If the (1) Upon the filing of a petition authorized by this part, an initiating court finds that the petition sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or his property, it shall so certify and cause forward three copies of the petition and its certificate and one copy of this part to be sent accompanying documents:

(1)(A) to the responding court; Certification shall be in accordance with the requirements of the initiating state; if the name and address of the responding court is unknown and tribunal or appropriate support enforcement agency in the responding state; or

(2)(B) has an information agency comparable to that established in the initiating state, it shall cause the copies to be sent if the identity of the responding tribunal is unknown, to the state information agency or other proper official of the responding state, with a request that the agency or official forward them they be forwarded to the proper court and that the court of the responding state

acknowledge their appropriate tribunal and that receipt to the initiating court be acknowledged.

(2) THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES IS THE INITIATING TRIBUNAL FOR ANY ACTION OR PROCEEDING THAT MAY BE BROUGHT UNDER TITLE 40, CHAPTER 5, PARTS 2, 4, AND 5). IN ALL OTHER CASES, THE DISTRICT COURT IS THE INITIATING TRIBUNAL."

**NEW SECTION. Section 19.** Duties and powers of responding tribunal. (1) When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly pursuant to [section 15(4)], it shall:

(a) in cases brought pursuant to title IV-B of the Social Security Act, proceed pursuant to 40-5-263; and

(b) in all other cases, cause the petition or pleading to be filed and notify the petitioner by first-class mail where and when it was filed.

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

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

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

(c) order income withholding;

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

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

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

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

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

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

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

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

(1) grant any other available remedy.

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

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

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

(6) THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES IS THE RESPONDING TRIBUNAL FOR RECEIPT OF A PETITION OR COMPARABLE PROCEEDINGS FROM AN INITIATING STATE AS PROVIDED IN 40-5-263. IN ALL OTHER CASES, THE DISTRICT COURT IS THE RESPONDING TRIBUNAL.

NEW SECTION. Section 20. Inappropriate tribunal. If a petition or comparable pleading is received by an inappropriate tribunal of this state, it shall forward the pleading and accompanying documents to an appropriate tribunal in this state or another state and notify the petitioner by first-class mail where and when the pleading was sent.

NEW SECTION. Section 21. Duties of support enforcement agency. (1) A support enforcement agency of this state, upon application, shall provide services to a petitioner in a proceeding under this part.

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

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

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

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

9 (d) after receipt of a written notice from an  
10 initiating, responding, or registering tribunal, PROMPTLY  
11 send a copy of the notice by first-class mail to the  
12 petitioner;

13 (e) after receipt of a written communication from the  
14 respondent or the respondent's attorney, PROMPTLY send a  
15 copy of the communication by first-class mail to the  
16 petitioner; and

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

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

23 (4) FOR PURPOSES OF THIS PART, THE DEPARTMENT OF SOCIAL  
24 AND REHABILITATION SERVICES IS THE SUPPORT ENFORCEMENT  
25 AGENCY FOR THIS STATE AS PROVIDED IN TITLE 40, CHAPTER 5,

1 PARTS 2, 4[, AND 5]. ALL THE PROVISIONS OF THIS PART MUST BE  
2 INTERPRETED AS SUPPLEMENTAL TO AND CUMULATIVE WITH THE  
3 DEPARTMENT'S POWERS AND DUTIES UNDER THOSE PROVISIONS. IN  
4 ALL OTHER CASES, THE COUNTY ATTORNEY IN THE COUNTY IN WHICH  
5 AN ACTION MUST BE FILED IS THE SUPPORT ENFORCEMENT AGENCY.

6 **Section 22.** Section 40-5-118, MCA, is amended to read:

7 "40-5-118. State Duties of state information agency.

8 (1) The state department of social and rehabilitation  
9 services is designated as the state information agency under  
10 this part.

11 (2) It The department shall:

12 (a) compile and maintain a current list, including  
13 addresses, of the courts-and-their--addresses tribunals in  
14 this state having that have jurisdiction under this part and  
15 of any support enforcement agencies in this state and  
16 transmit it a copy to the state information agency of every  
17 other state which--has--adopted--this--or--a-substantially  
18 similar-law.-Upon-the-adournment-of--each--session--of--the  
19 legislature--the--agency--shall--distribute--copies--of--any  
20 amendments--to--this-part-and-a-statement-of-their-effective  
21 date-to-all-other-state-information-agencies; and

22 (b) maintain a register of lists--of--courts tribunals  
23 and support enforcement agencies received--from of other  
24 states; and-transmit-copies-thereof-promptly-to-every--court  
25 in-this-state-having-jurisdiction-under-this-part;-and

(c) forward to the court in this state which has jurisdiction over the obligor or his property petitions, certificates, and copies of the reciprocal enforcement of support act it receives from courts or information agencies of other states;

(3) if the state information agency does not know the location of the obligor or his property in the state and no state location service is available, it shall use all means at its disposal to obtain this information, including the examination of official records in the state and other sources such as telephone directories, real property records, vital statistics records, police records, requests for the name and address from employers who are able or willing to cooperate, records of motor vehicle license offices, requests made to the tax offices both state and federal where such offices are able to cooperate, and requests made to the social security administration as permitted by the Social Security Act, as amended;

(4) After the deposit of three copies of the petition and certificate and one copy of the reciprocal enforcement of support act of the initiating state with the clerk of the appropriate court, if the state information agency knows or believes that the prosecuting attorney is not prosecuting the case diligently, it shall inform the attorney general who may undertake the representation;

(C) FORWARD TO THE APPROPRIATE TRIBUNAL IN THE PLACE IN THIS STATE IN WHICH THE INDIVIDUAL OBLIGEE OR THE OBLIGOR RESIDES OR IN WHICH THE OBLIGOR'S PROPERTY IS BELIEVED TO BE LOCATED ALL DOCUMENTS CONCERNING A PROCEEDING UNDER THIS PART RECEIVED FROM AN INITIATING TRIBUNAL OR THE STATE INFORMATION AGENCY OF THE INITIATING STATE; AND

(D) OBTAIN INFORMATION CONCERNING THE LOCATION OF THE OBLIGOR AND THE OBLIGOR'S PROPERTY WITHIN THIS STATE NOT EXEMPT FROM EXECUTION, BY SUCH MEANS AS POSTAL VERIFICATION AND FEDERAL OR STATE LOCATOR SERVICES, EXAMINATION OF TELEPHONE DIRECTORIES, REQUESTS FOR THE OBLIGOR'S ADDRESS FROM EMPLOYERS, AND EXAMINATION OF GOVERNMENTAL RECORDS, INCLUDING, TO THE EXTENT NOT PROHIBITED BY OTHER LAW, THOSE RELATING TO REAL PROPERTY, VITAL STATISTICS, LAW ENFORCEMENT, TAXATION, MOTOR VEHICLES, DRIVER'S LICENSES, AND SOCIAL SECURITY."

**Section 23.** Section 40-5-119, MCA, is amended to read:

"40-5-119. Duty of the court and officials of this state as responding state attorney general. (1) After the responding court receives copies of the petition, certificate, and reciprocal enforcement of support act from the initiating court, the clerk of the court shall docket the case and notify the prosecuting attorney of his action. (2) The prosecuting attorney shall prosecute the case diligently. He shall take all action necessary in accordance

~~with the laws of this state to enable the court to obtain jurisdiction over the obligor or his property and shall request the court to set a time and place for a hearing and give notice thereof to the obligor in accordance with law.~~

{3} If the prosecuting attorney neglects or refuses to represent the obligee, the attorney general determines that a support enforcement agency is neglecting or refusing to provide services to an obligee INDIVIDUAL, the attorney general may order him the agency to comply with the request of the court perform its duties under this part or may undertake the representation provide those services directly to the obligee INDIVIDUAL.

NEW SECTION. Section 24. Private counsel. An obligee INDIVIDUAL may employ private counsel to represent the obligee INDIVIDUAL in proceedings authorized by this part.

NEW SECTION. Section 25. Pleadings and accompanying documents. (1) A petitioner who seeks to establish or modify a support order or to determine parentage in a proceeding under this part shall verify the petition. Unless otherwise ordered under [section 26], the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee and the name, sex, residential address, social security number, and date of birth of each child for whom support is sought. The petition must be

accompanied by a certified copy of any support order in effect. The petition may include any other information that may assist in locating or identifying the respondent.

(2) The petition must specify the relief sought. The petition and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a title ~~IV-B of the Social Security Act~~ SUPPORT ENFORCEMENT agency.

NEW SECTION. Section 26. Nondisclosure of information in exceptional circumstances. Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this part.

NEW SECTION. Section 27. Costs and fees. (1) ~~In cases brought pursuant to title IV-B of the Social Security Act, costs and fees must be assessed as provided in 40-5-210~~ THE PETITIONER MAY NOT BE REQUIRED TO PAY A FILING FEE OR OTHER COSTS TO INITIATE A PROCEEDING UNDER THIS PART.

(2) ~~In all other cases, if~~ IF an obligee prevails, a responding tribunal may assess against an obligor the filing fees, reasonable attorney fees, other costs, and necessary

travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. Except as provided by other law, the tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state. Attorney fees may be taxed as costs and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of current support owed to the obligee has priority over fees, costs, and expenses.

(3) The tribunal shall order the payment of costs and reasonable attorney fees if it determines that a hearing was requested primarily for delay. In a proceeding under [sections 39 through 47] and 40-5-137, 40-5-140, 40-5-141, or 40-5-271, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

(4) THE STANDARDIZED SCHEDULE OF FEES ESTABLISHED BY THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES UNDER 40-5-210 IS CONCLUSIVE IN ANY ACTION UNDER THIS SECTION. ANY FEES OR COSTS RECOVERABLE UNDER SUBSECTION (2) THAT ARE NOT INCLUDED IN THE STANDARDIZED SCHEDULES ARE RECOVERABLE UNDER SUBSECTION (2).

NEW SECTION. Section 28. Nonparentage as defense --  
limitation. A party whose parentage of a child has been finally PREVIOUSLY determined by a court order or decree, by

~~an administrative order, or pursuant to law~~ may not plead nonparentage as a defense to a proceeding under this part.

NEW SECTION. Section 29. Special rules of evidence and procedure. (1) The physical presence of the petitioner in a responding tribunal of this state is not required for the establishment, enforcement, or modification of a support order or for the rendition of a judgment determining parentage.

(2) A verified petition, affidavit, or document substantially complying with federally mandated forms for ~~use by title IV-B of the Social Security Act agencies~~ and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another state.

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

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

necessary, and customary.

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

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

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

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

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

**NEW SECTION. Section 30. Communications between**

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

**NEW SECTION. Section 31. Assistance with discovery.** A tribunal of this state may:

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

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

**NEW SECTION. Section 32. Receipt and disbursement of payments.** A support enforcement agency or tribunal of this state authorized-by-law-to-receive--support--payments shall disburse promptly any amounts received pursuant to a support order AS DIRECTED UNDER THIS PART. The agency or appropriate tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

**NEW SECTION. Section 33. Petition to establish support order.** (1) If a support order entitled to recognition under this part has not been issued, an appropriate responding

tribunal of this state may issue a support order if:

(a) the individual seeking the order resides in another state; or

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

(2) The tribunal may issue a temporary child support order if:

(a) the respondent has signed a verified statement acknowledging parentage;

(b) the respondent has been determined by or pursuant to law to be the parent; or

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

(3) Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to [section 19].

**NEW SECTION. Section 34. Administrative enforcement of orders.** (1) ~~if the department of social and rehabilitation services is providing services pursuant to title IV-B of the Social Security Act, a~~ A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to the department A SUPPORT ENFORCEMENT AGENCY OF THIS STATE.

(2) Upon receipt of the documents, the department SUPPORT ENFORCEMENT AGENCY, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of this state to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the department SUPPORT ENFORCEMENT AGENCY shall register the order pursuant to ~~Title 40, chapter 5, part 2 or 4~~ THIS PART.

**Section 35.** Section 40-5-133, MCA, is amended to read:

~~"40-5-133. Effect of participation in proceeding~~ Limited immunity of petitioner. (1) Participation by a petitioner in any a proceeding under this part before a responding tribunal, whether in person, by private attorney, or through services provided by a support enforcement agency, does not confer jurisdiction upon any court over any of the parties thereto petitioner in any other another proceeding.

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

(3) The immunity granted by this section does not extend to civil litigation based on acts that are unrelated

1 to a proceeding under this part and that are committed by a  
 2 party while present in this state to participate in the  
 3 proceeding."

4 **Section 36.** Section 40-5-137, MCA, is amended to read:

5 "40-5-137. Registration of order for enforcement. The  
 6 obligee may register the foreign A support order in a court  
 7 of or an income withholding order issued by a tribunal of  
 8 another state may be registered in this state in the manner  
 9 with the effect, and for the purposes herein provided for  
 10 enforcement."

11 **Section 37.** Section 40-5-140, MCA, is amended to read:

12 "40-5-140. Registration--procedure----notice Procedure  
 13 to register order for enforcement. (1) An obligee seeking to  
 14 register a foreign A support order or income withholding  
 15 order of another state may be registered in a court of this  
 16 state;

17 (a)--in cases brought pursuant to title IV-B of the  
 18 Social Security Act, as provided in part 2 of this chapter;  
 19 and

20 (b) shall transmit in all other cases by sending the  
 21 following documents and information to the clerk of  
 22 DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES PURSUANT TO  
 23 40-5-263 OR TO the DISTRICT court:

24 (i)(A) a letter of transmittal to the tribunal to  
 25 request registration and enforcement;

1 (a)(iii)(B) three--certified two copies, including one  
 2 certified copy, of the order with all modifications--thereof  
 3 orders to be registered, including any modification of an  
 4 order;

5 (b)--one copy of the reciprocal enforcement--of--support  
 6 act of the state in which the order was made; and

7 (c)(iii)(C) a sworn statement, verified and signed by  
 8 the obligee, showing the post office address of the obligee,  
 9 party seeking registration or a certified statement by the  
 10 custodian of the records, showing the amount of any  
 11 arrearages;

12 (iv)(D) the name of the obligor and, if known:

13 (A)(I) the obligor's last known place of residence--and  
 14 post office address of--the obligor, the amount of support  
 15 remaining unpaid, and social security number;

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

18 (e)(III) a description and the location of any property  
 19 of the obligor available upon in this state that is not  
 20 exempt from execution, and a list of the states in which the  
 21 order is registered; and

22 (v)(E) the name and address of the obligee and, if  
 23 applicable, the agency or person to whom support payments  
 24 are to be remitted.

25 (2) Upon receipt of these documents the clerk of the

1 court a request for registration, without--payment-of-a  
 2 filing-fee-or-other-cost-to-the-obligor, shall file them--in  
 3 the---registry---of---foreign--support--orders.---The---filing  
 4 constitutes registration under--this--part the registering  
 5 tribunal shall cause the order to be filed, together with  
 6 one copy of the documents and information, regardless of  
 7 their form.

8 (3) Promptly--upon--registration--the clerk of the court  
 9 shall send by certified or registered mail to the obligor at  
 10 the address given a notice of the registration with--a--copy  
 11 of--the registered support order and the post office address  
 12 of the obligor. He shall also docket the case and notify the  
 13 prosecuting attorney of his action. The prosecuting attorney  
 14 shall proceed diligently to enforce the order. A petition or  
 15 comparable pleading seeking a remedy that must be  
 16 affirmatively sought under other law of this state may be  
 17 filed either at the same time as the request for  
 18 registration or later. The pleading must specify the grounds  
 19 for the remedy sought."

20 **Section 38.** Section 40-5-141, MCA, is amended to read:

21 "40-5-141. Effect of registration -- enforcement  
 22 procedure. (1) Upon registration--the A support order or  
 23 income withholding order issued in another state is  
 24 registered foreign support when the order shall--be--treated  
 25 in--the--same--manner--as--a support order issued by a court is

1 filed in a registering tribunal of this state.

2 (2) It has the same effect A registered order issued in  
 3 another state is enforceable in the same manner and is  
 4 subject to the same procedures, defenses, and proceedings  
 5 for reopening, vacating, or staying as a--support an order  
 6 issued by a tribunal of this state and may be enforced and  
 7 satisfied in like manner.

8 (2)--The obligor has 20 days after the mailing of notice  
 9 of the registration in which to petition the court to vacate  
 10 the registration or for other relief. If he does not--so  
 11 petition, the registered support order is confirmed.

12 (3) At the hearing to enforce the registered support  
 13 order, the obligor may present only matters--that--would--be  
 14 available--to--him--as--defenses--in--an action to enforce a  
 15 foreign money judgment. If he shows to the court--that--an  
 16 appeal--from the order is pending or will be taken or that a  
 17 stay of execution has been granted, the court shall stay  
 18 enforcement of the order until the appeal is concluded, the  
 19 time for appeal has expired, or the order is vacated, upon  
 20 satisfactory proof that the obligor has furnished security  
 21 for payment of the support ordered as required by the  
 22 rendering state. If he shows to the court any ground upon  
 23 which enforcement of a support order of this state may be  
 24 stayed, the court shall stay enforcement of the order for an  
 25 appropriate period if the obligor furnishes the same

1 ~~security-for-payment-of-the-support-ordered-that-is-required~~  
 2 ~~for-a-support-order--of--this--state~~ Except as otherwise  
 3 provided in [sections 39 through 47] and 40-5-137, 40-5-140,  
 4 and 40-5-141, a tribunal of this state shall recognize and  
 5 enforce, but may not modify, a registered order if the  
 6 issuing tribunal had jurisdiction."

7 NEW SECTION. Section 39. Choice of law. (1) The law of  
 8 the issuing state governs the nature, extent, amount, and  
 9 duration of current payments and other obligations of  
 10 support and the payment of arrearages under the order.

11 (2) In a proceeding for arrearages, the statute of  
 12 limitations under the laws of this state or of the issuing  
 13 state, whichever is longer, applies.

14 NEW SECTION. Section 40. Notice of registration of  
 15 order. (1) When a support order or income-withholding order  
 16 issued in another state is registered, the registering  
 17 tribunal shall notify the nonregistering party. Notice must  
 18 be given by first-class or certified mail or by any means of  
 19 personal service authorized by the law of this state. The  
 20 notice must be accompanied by a copy of the registered order  
 21 and the documents and relevant information accompanying the  
 22 order.

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

24 (a) that a registered order is enforceable as of the  
 25 date of registration in the same manner as an order issued

1 by a tribunal of this state;

2 (b) that a hearing to contest the validity or  
 3 enforcement of the registered order must be requested within  
 4 20 days after the date of mailing or personal service of the  
 5 notice;

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

8 (i) will result in confirmation of the order and  
 9 enforcement of the order and the alleged arrearages; and

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

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

13 (3) Upon registration of an income-withholding order  
 14 for enforcement, the registering tribunal shall notify the  
 15 obligor's employer pursuant to Title 40, chapter 5, part 4.

16 NEW SECTION. Section 41. Procedure to contest validity  
 17 or enforcement of registered order. (1) A nonregistering  
 18 party seeking to contest the validity or enforcement of a  
 19 registered order in this state shall request a hearing  
 20 within 20 days after the date of mailing or personal service  
 21 of notice of the registration. The nonregistering party may,  
 22 pursuant to [section 42], seek to vacate the registration,  
 23 to assert any defense to an allegation of noncompliance with  
 24 the registered order, or to contest the remedies being  
 25 sought or the amount of any alleged arrearages.

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

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

**NEW SECTION. Section 42. Contest of registration or enforcement.** (1) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

(a) the issuing tribunal lacked personal jurisdiction over the contesting party;

(b) the order was obtained by fraud;

(c) the order has been vacated, suspended, or modified by a later order;

(d) the issuing tribunal has stayed the order pending appeal;

(e) there is a defense under the law of this state to the remedy sought;

(f) full or partial payment has been made; or

(g) the statute of limitations under [section 39] precludes enforcement of some or all of the arrearages.

(2) If a party presents evidence establishing a full or partial defense under subsection (1), the registering tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.

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

**NEW SECTION. Section 43. Confirmed order.** Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

**NEW SECTION. Section 44. Procedure to register child support order of another state for modification.** A party or support enforcement agency seeking to modify or to modify and enforce a child support order issued in another state shall register that order in this state in the same manner provided in 40-5-137, 40-5-140, 40-5-141, [section 40], and 40-5-271 if the order has not been registered. A petition for modification may be filed either at the same time as a request for registration or later. The pleading must specify

1 the grounds for modification.

2 **NEW SECTION. Section 45.** Effect of registration for  
3 modification. A tribunal of this state may enforce a child  
4 support order of another state, registered for purposes of  
5 modification, in the same manner as if the order had been  
6 issued by a tribunal of this state. However, the registered  
7 order may be modified only if the requirements of [section  
8 46] have been met.

9 **NEW SECTION. Section 46.** Modification of child support  
10 order of another state. (1) After a child support order  
11 issued in another state has been registered in this state,  
12 the appropriate responding tribunal of this state may modify  
13 that order only if, after notice and hearing, it finds that:

14 (a) the following requirements are met:

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

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

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

21 (b) an individual party or the child is subject to the  
22 personal jurisdiction of the tribunal and all of the  
23 individual parties have filed in the issuing tribunal a  
24 written consent providing that the appropriate tribunal of  
25 this state may modify the support order and that this state

1 may assume continuing, exclusive jurisdiction over the  
2 order.

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

8 (3) A tribunal of this state may modify only a child  
9 support order. A tribunal may not modify provisions, such as  
10 custody, visitation, or other provisions not related to  
11 support.

12 (4) On issuance of an order modifying a child support  
13 order issued in another state, a tribunal of this state has  
14 continuing, exclusive jurisdiction.

15 (5) Within 30 days after issuance of a modified child  
16 support order, the tribunal issuing the modification shall  
17 file a certified copy of the order:

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

20 (b) in each tribunal in which the modifying tribunal  
21 knows that earlier order has been registered.

22 **NEW SECTION. Section 47.** Recognition of order modified  
23 in another state. A tribunal of this state shall recognize a  
24 modification of its earlier child support order by a  
25 tribunal of another state that assumed jurisdiction pursuant

1 to a law substantially similar to this part. Except as  
2 otherwise provided in this part, the tribunal of this state  
3 shall, upon request:

4 (1) enforce the order that was modified only as to  
5 amounts accruing before the modification;

6 (2) enforce only nonmodifiable aspects of that order;

7 (3) provide other appropriate relief only for  
8 violations of the order that occurred before the effective  
9 date of the modification; and

10 (4) recognize and enforce the modifying order of the  
11 other state, upon request--or registration as provided in  
12 this part, FOR THE PURPOSE OF ENFORCEMENT.

13 NEW SECTION. Section 48. Proceeding to determine  
14 parentage. (1) A tribunal of this state may serve as an  
15 initiating or responding tribunal in a proceeding brought  
16 under this part or a law substantially similar to this part,  
17 the Uniform Reciprocal Enforcement of Support Act, or the  
18 Revised Uniform Reciprocal Enforcement of Support Act to  
19 determine whether the petitioner is a parent of a particular  
20 child or to determine whether a respondent is a parent of  
21 that child.

22 (2) In a proceeding to determine parentage, a  
23 responding tribunal of this state shall apply the rules of  
24 this state on choice of law and:

25 (a) ~~in cases brought pursuant to title IV-B of the~~

1 ~~Social Security Act, the provisions of 40-5-231 through~~  
2 ~~40-5-237, and~~

3 ~~(b) in all other cases, the provisions of Title 40,~~  
4 ~~chapter 6, part 1.~~

5 (3) A PROCEEDING TO DETERMINE PARENTAGE DIRECTED TO:

6 (A) THE DEPARTMENT OF SOCIAL AND REHABILITATION  
7 SERVICES FROM AN INITIATING STATE PURSUANT TO 40-5-263 AND  
8 THIS PART IS SUBJECT TO THE PROVISIONS OF 40-5-231 THROUGH  
9 40-5-237 OR TITLE 40, CHAPTER 6, PART 1, AS APPLICABLE; AND

10 (B) A DISTRICT COURT FROM AN INITIATING STATE IS  
11 SUBJECT TO THE PROVISIONS OF TITLE 40, CHAPTER 6, PART 1.

12 **Section 49.** Section 40-5-142, MCA, is amended to read:

13 "40-5-142. Uniformity of interpretation. This part  
14 shall must be so construed as to effectuate its general  
15 purpose to make uniform the law of those with respect to the  
16 subject of this part among states which enact enacting it."

17 **Section 50.** Section 40-5-272, MCA, is amended to read:

18 "40-5-272. Application for review of child support  
19 orders. (1) Upon the application of the department, the  
20 obligor, or the obligee, a hearing officer appointed  
21 pursuant to 40-5-273 shall review support orders filed with  
22 the support order registry. The purpose of the review is to  
23 determine whether the support order should be modified in  
24 accordance with the guidelines.

25 (2) Jurisdiction to conduct the review and to issue a

1 modifying order under 40-5-273 is authorized when:

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

3 OR

4 (b) jurisdiction can be obtained as provided under  
5 40-4-210; or

6 ~~(c) the obligor resides in this state and the~~  
7 ~~department is providing IV-B enforcement services for the~~  
8 ~~order 40-5-231.~~

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

12 (4) Criteria constituting sufficient grounds for review  
13 of a child support order include:

14 (a) inconsistency with this state's guidelines, unless  
15 the inconsistency is considered negligible under department  
16 rules; or

17 (b) availability of health insurance coverage to the  
18 obligor's child through the obligor's employment or other  
19 group insurance.

20 (5) The department shall make available procedures and  
21 forms that allow the obligor or the obligee to complete the  
22 review process without legal counsel.

23 (6) To the extent that they are consistent with this  
24 section, the provisions of [sections 5, 9, and 10] apply to  
25 this section."

1 **Section 51.** Section 40-5-431, MCA, is amended to read:

2 "40-5-431. Registration of interstate income  
3 withholding orders. (1) Whenever an obligor, whether or not  
4 he the obligor resides in this state, derives income within  
5 this state and an order for income withholding of the  
6 obligor's income has been issued by a public agency of  
7 another state as a means to enforce support orders under  
8 Title IV-D of the Social Security Act, that agency may  
9 register the income withholding order with the department.  
10 Upon registration of the foreign withholding order, it must  
11 be treated in the same manner and have the same effect as an  
12 income withholding order issued by the department. The  
13 provisions of [sections 40 through 43] apply to this section  
14 to the extent that they are consistent with this section.

15 (2) The application for registration of a foreign order  
16 for income withholding must include:

17 (a) a certified copy of the support order, with all  
18 modifications thereof of the order;

19 (b) a certified copy of the income withholding order;

20 (c) a sworn statement of the facts entitling the agency  
21 to issue an income withholding order, including a statement  
22 of the amount of arrearages and a statement that all  
23 procedural due process requirements of the foreign  
24 jurisdiction for issuance of such the income withholding  
25 order have been carried out in full;

(d) the name, address, and social security number of the obligor;

(e) the name and address of the obligor's employer or of any other payor of income to the obligor if the order for income withholding of the foreign jurisdiction extends to such other income; and

(f) the name and address of the agency or person to whom support payments collected by the department under income withholding procedures should be transmitted.

(3) When the foreign income withholding order is registered, the department shall serve the order upon the payor, with directions to the payor to comply with the order and to deliver the withheld amounts to the department. Registration of a foreign income-withholding order under this section does not confer jurisdiction for any other purpose, such as modification of the support order, custody, or visitation."

**SECTION 52. SECTION 40-4-210, MCA, IS AMENDED TO READ:**

"40-4-210. Child support jurisdiction -- nonresident parent individual. A court of this state that is competent to decide child support matters may exercise personal jurisdiction over a nonresident parent individual or the individual's guardian or conservator in a child support determination in the initial or modification decree if:

(1) the nonresident-parent-has-resided-with--the--child

in individual is personally served with notice within this state in accordance with Rule 4B, Montana Rules of Civil Procedure;

(2) ~~{a} the nonresident--parent--maintained--a-marital domicile-in-this-state-from-which-the-child-was-conceived-or adopted;-and~~

~~{b}--the-other-party--to--the--marital--relationship--or~~ individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document that has the effect of waiving any contest to personal jurisdiction;

(3) the individual has resided with the child resides within this state;

~~{3}{4}~~ (4) the child was conceived-or adopted within this state when at least one parent was a resident; or

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

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

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

~~{4}{8}~~ (8) there is any other basis consistent with the constitutions of this state and the United States for the exercise of the personal jurisdiction."

**SECTION 53. SECTION 40-5-202, MCA, IS AMENDED TO READ:**

\*40-5-202. Department of social and rehabilitation services -- powers and duties regarding collection of support debt. (1) The department may take action under the provisions of this part, the abandonment or nonsupport statutes, the Uniform Parentage Act established in Title 40, chapter 6, part 1, and other appropriate state and federal statutes to ensure that the parent or other person responsible pays for the care, support, or maintenance of a child if the department:

(a) receives a referral from the department of social and rehabilitation services or the department of family services on behalf of the child;

(b) is providing child support enforcement services under 40-5-203; or

(c) receives an interstate referral, whether under the Revised Uniform Reciprocal Enforcement of Support Act, the Uniform Interstate Family Support Act, or an interstate action by a Title IV-D agency of another state.

(2) If the department is providing child support enforcement services for a child under this part, the department becomes trustee of any cause of action of the child or the obligee to recover support due to the child or obligee from the obligor. The department may bring and maintain the action in its own name or in the name of the

obligee.

(3) The department has the power of attorney to act in the name of any obligee to endorse and cash any and all drafts, checks, money orders, or other negotiable instruments received by the department on behalf of a child.

(4) For purposes of prosecuting any civil action, the department is a real party in interest if it is providing child support enforcement services under this part. No An obligee may not act to prejudice the rights of the department while such services are being provided.

(5) If child support enforcement services are being or have been provided under this part, no an agreement between any obligee and any obligor either relieving an obligor of any duty of support or purporting to settle past, present, or future support obligations either as settlement or prepayment may not act to reduce or terminate any rights of the department to recover from the obligor for support debt provided unless the department has consented to the agreement in writing.

(6) The department may petition a court or an administrative agency for modification of any order on the same basis as a party to that action is entitled to do.

(7) The department is subrogated to the right of the child or obligee to maintain any civil action or execute any administrative remedy available under the laws of this or

1 any other state to collect a support debt. This right of  
2 subrogation is in addition to and independent of the  
3 assignment under 53-2-613 and the support debt created by  
4 40-5-221.

5 (8) If public assistance is being or has been paid, the  
6 department is subrogated to the debt created by a support  
7 order and any money judgment is considered to be in favor of  
8 the department. This subrogation is an addition to any  
9 assignment made under 53-2-613 and applies to the lesser of:

10 (a) the amount of public assistance paid; or

11 (b) the amount due under the support order.

12 (9) The department may adopt and enforce the rules  
13 necessary to carry out the provisions of this part.

14 (10) The department, for the purposes mentioned in this  
15 part, through its director or the director's authorized  
16 representatives, may administer oaths to certify official  
17 acts and records, issue subpoenas, and compel witnesses and  
18 the production of books, accounts, documents, and evidence."

19 **SECTION 54. SECTION 40-5-226, MCA, IS AMENDED TO READ:**

20 "40-5-226. Administrative hearing -- nature -- place ---  
21 time -- determinations -- failure to appear -- entry of  
22 final decision and order. (1) The administrative hearing is  
23 defined as a "contested case".

24 (2) ~~At the discretion of the hearing officer, the~~  
25 ~~administrative hearing may be held:~~

1 ~~(a) in the county of residence or other county~~  
2 ~~convenient to the obligor or obligee; or~~

3 ~~(b) in the county in which the department or any of its~~  
4 ~~offices are located;~~

5 ~~(3)~~ If a hearing is requested, it must be scheduled  
6 within 20 days.

7 ~~(4)~~(3) The hearing officer shall determine the  
8 liability and responsibility, if any, of the obligor under  
9 the notice and shall enter a final decision and order in  
10 accordance with such the determination.

11 ~~(5)~~(4) If the obligor fails to appear at the hearing or  
12 fails to timely request a hearing, the hearing officer, upon  
13 a showing of valid service, shall enter a decision and order  
14 declaring the amount stated in the notice to be final.

15 ~~(6)~~(5) In a hearing to determine financial  
16 responsibility, the monthly support responsibility must be  
17 determined in accordance with the evidence presented and  
18 with reference to the scale of suggested minimum  
19 contributions under 40-5-214. The hearing officer is not  
20 limited to the amounts stated in the notice.

21 ~~(7)~~(6) Within 20 days of the hearing, the hearing  
22 officer shall enter a final decision and order. The  
23 determination of the hearing officer constitutes a final  
24 agency decision, subject to judicial review under 40-5-253  
25 and the provisions of the Montana Administrative Procedure

1 Act.

2 {8}(7) A support order entered under this part must  
3 contain a statement that the order is subject to review and  
4 modification by the department upon the request of the  
5 department or a party under 40-5-271 through 40-5-273 when  
6 the department is providing services under IV-D for the  
7 enforcement of the order.

8 {9}(8) A support debt determined pursuant to this  
9 section is subject to collection action without further  
10 necessity of action by the hearing officer.

11 {10}(9) A support debt or a support responsibility  
12 determined under this part by reason of the obligor's  
13 failure to request a hearing under this part or failure to  
14 appear at a scheduled hearing may be vacated, upon the  
15 motion of an obligor, by the hearing officer within the time  
16 provided and upon a showing of any of the grounds enumerated  
17 in the Montana Rules of Civil Procedure.

18 {11}(10) Unless the hearing officer makes a written  
19 exception under 40-5-315 or 40-5-411 and the exception is  
20 included in the support order, every order establishing a  
21 child support obligation, whether temporary or final, and  
22 each modification of an existing child support order under  
23 this part is enforceable by immediate or delinquency income  
24 withholding, or both, under Title 40, chapter 5, part 4. A  
25 support order that omits that provision or that provides for

1 a payment arrangement inconsistent with this section is  
2 nevertheless subject to withholding for the payment of  
3 support without need for an amendment of the support order  
4 or for any further action by the hearing officer.

5 {12}(11) For the purposes of income withholding provided  
6 for in subsection {11} (10), whenever the department  
7 establishes or modifies a child support obligation, the  
8 department's order must include a provision requiring the  
9 obligor, for as long as the department is providing support  
10 enforcement services, to keep the department informed of the  
11 name and address of the obligor's current employer, whether  
12 the obligor has access to health insurance through an  
13 employer or other group, and, if so, the health insurance  
14 policy information."

15 **SECTION 55. SECTION 40-5-231, MCA, IS AMENDED TO READ:**

16 "40-5-231. Establishment-of-paternity-----jurisdiction  
17 Jurisdiction and venue. (1) For purposes of an  
18 administrative action brought under 40-5-231--through  
19 40-5-237 this part, personal jurisdiction is established in  
20 the department over any person--who--has--had--sexual  
21 intercourse-in-this-state-that-has-resulted-in-the-birth--of  
22 a--child-who-is-the-subject-of-such-proceedings-and-over-any  
23 person-subject-to-the-provisions-of-Rule-4B-of--the--Montana  
24 Rules--of--Civil-Procedure, including-but-not-limited-to-the  
25 child, the child's parents, any person having custody of the

child; and any alleged father individual or the individual's guardian or conservator if:

(a) the individual is personally served with notice within this state;

(b) the individual submits to the jurisdiction of this state by consent, by entering a general appearance, or by filing a responsive document that has the effect of waiving any contest to personal jurisdiction;

(c) the individual resided with the child in this state;

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

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

(f) the individual engaged in sexual intercourse in this state and the child may have been conceived by the act of intercourse; or

(g) there is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

(2) Personal jurisdiction over the persons individuals described in subsection (1) may be acquired by personal service or by service of notice by certified mail.

(3) If the child or either parent resides in this state, a hearing under ~~40-5-231 through 40-5-237~~ this part

may be held in the county where:

(a) the child resides;

(b) either parent resides; or

(c) the department or any of its regional offices is located."

**SECTION 56. SECTION 40-5-263, MCA, IS AMENDED TO READ:**

"40-5-263. Central clearinghouse -- interstate enforcement services -- powers and duties of the department.

(1) The department shall establish a clearinghouse for the registration of all interstate IV-D cases referred to the department by other states. The clearinghouse shall serve as the central point for the receipt and dissemination of information regarding interstate enforcement requests, including but not limited to:

(a) petitions under the Revised Uniform Reciprocal Enforcement of Support Act or the Uniform Interstate Family Support Act; and

(b) wage withholding requests under part 4 of this chapter.

(2) (a) A case must be referred to the clearinghouse to be processed as a IV-D case and receive the benefits of IV-D status and clearinghouse services.

(b) The clearinghouse may accept any interstate IV-D referral made by interstate application or by petition under the Revised Uniform Reciprocal Enforcement of Support Act or

1 the Uniform Interstate Family Support Act. An application  
2 must be made on forms prescribed by the department.

3 (3) Upon certification by the initiating state that a  
4 case filed in the registry of foreign support orders,  
5 including a petition under the Revised Uniform Reciprocal  
6 Enforcement of Support Act or the Uniform Interstate Family  
7 Support Act, is eligible for IV-D services and that the  
8 obligor resides, has property, or derives income in this  
9 state, the department may establish or enforce a child  
10 support obligation by any appropriate statute, including the  
11 remedies in this chapter.

12 (4) If necessary, the department shall establish the  
13 paternity of the child.

14 (5) The clearinghouse shall:

15 (a) review and acknowledge receipt of any interstate  
16 IV-D referral;

17 (b) request missing information from the initiating  
18 state;

19 (c) determine appropriate enforcement remedies and  
20 forward the referral to the appropriate enforcement unit;

21 (d) provide status updates to the initiating state,  
22 including the location of the responsible enforcement unit;

23 (e) locate an obligor and the obligor's assets, if  
24 necessary; and

25 (f) initiate a IV-D referral if services are provided

1 by the department to a resident of this state and the  
2 obligor resides outside the state.

3 (6) If the department is providing support enforcement  
4 services to a resident of this state, the director or his  
5 the director's designee may certify any interstate petition,  
6 application, and referral, including a petition under part 1  
7 of this chapter."

8 **SECTION 57. SECTION 40-6-109, MCA, IS AMENDED TO READ:**

9 "40-6-109. Jurisdiction -- venue. (1) The district  
10 court has jurisdiction of an action brought under this part.  
11 The action may be joined with an action for dissolution,  
12 annulment, separate maintenance, support, or adoption.

13 (2) For purposes of an action brought under this part,  
14 personal jurisdiction is established in the courts of this  
15 state over any person who has had sexual intercourse in this  
16 state--which has resulted in the birth of a child who is the  
17 subject of such proceedings--in addition to any other method  
18 provided by rule or statute, personal jurisdiction may be  
19 acquired--by--service--in--accordance--with--Rule--4B--of--the  
20 Montana Rules--of--Civil--Procedure an individual or the  
21 individual's guardian or conservator, if:

22 (a) the individual is personally served within this  
23 state in accordance with Rule 4B, Montana Rules of Civil  
24 Procedure;

25 (b) the individual submits to the jurisdiction of this

1 state by consent, by entering a general appearance, or by  
 2 filing a responsive document that has the effect of waiving  
 3 any contest to personal jurisdiction;

4 (c) the individual resided with the child in this  
 5 state;

6 (d) the individual resided in this state and provided  
 7 prenatal expenses or support for the child;

8 (e) the child resides in this state as a result of the  
 9 acts or directives of the individual;

10 (f) the individual engaged in sexual intercourse in  
 11 this state and the child may have been conceived by that act  
 12 of intercourse; or

13 (g) there is any other basis consistent with the  
 14 constitutions of this state and the United States for the  
 15 exercise of personal jurisdiction.

16 (3) The action may be brought in the county in which  
 17 the child or the alleged father resides or is found or, if  
 18 the father is deceased, in which proceedings for probate of  
 19 his the father's estate have been or could be commenced."

20 **NEW SECTION. Section 58. Repealer.** Sections 40-5-102,  
 21 40-5-105, 40-5-108, 40-5-109, 40-5-110, 40-5-111, 40-5-112,  
 22 40-5-113, 40-5-114, 40-5-116, 40-5-117, 40-5-120, 40-5-121,  
 23 40-5-122, 40-5-123, 40-5-124, 40-5-125, 40-5-126, 40-5-127,  
 24 40-5-128, 40-5-129, 40-5-130, 40-5-131, 40-5-132, 40-5-134,  
 25 40-5-135, 40-5-136, 40-5-138, and 40-5-139, MCA, are

1 repealed.

2 **NEW SECTION. Section 59. Severability.** If a part of  
 3 [this act] is invalid, all valid parts that are severable  
 4 from the invalid part remain in effect. If a part of [this  
 5 act] is invalid in one or more of its applications, the part  
 6 remains in effect in all valid applications that are  
 7 severable from the invalid applications.

8 **NEW SECTION. SECTION 60. COORDINATION. IF NEITHER**  
 9 **SENATE BILL NO. 217 NOR HOUSE BILL NO. 482 IS PASSED AND**  
 10 **APPROVED, THEN THE BRACKETED LANGUAGE IN [SECTION 18(3) AND**  
 11 **SECTION 21(4)] IS VOID AND THE CODE COMMISSIONER SHALL MAKE**  
 12 **NECESSARY CHANGES IN GRAMMAR.**

13 **NEW SECTION. Section 61. Codification instruction.**  
 14 [Sections 3, 5 through 12, 15 through 17, 19 through 21, 24  
 15 through 34, and 39 through 48] are intended to be codified  
 16 as an integral part of Title 40, chapter 5, part 1, and the  
 17 provisions of Title 40, chapter 5, part 1, apply to  
 18 [sections 3, 5 through 12, 15 through 17, 19 through 21, 24  
 19 through 34, and 39 through 48].

-End-