

No. 541, S.]

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CHAPTER 321

AN ACT to renumber, amend, repeal and recreate and create various subsections of 52.10 of the statutes, relating to the reciprocal enforcement of support act and to make uniform the law relating thereto.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 52.10 (2) (d) and (h) of the statutes are amended to read:

52.10 (2) (d) "Court" means the family court branch of circuit court or, if there is none, the court having jurisdiction under s. 52.05 to enforce support and, when the context requires, means the court of any other state as defined in a substantially similar reciprocal law. * * *

(h) "Obligee" means any person to whom a duty of support is owed and a state or political subdivision thereof.

SECTION 2. 52.10 (2) (i) to (L) of the statutes are created to read:

52.10 (2) (i) "Governor" includes any person performing the functions of governor or the executive authority of any territory covered by the provisions of this law.

(j) "Support order" means any judgment, decree or order of support whether temporary or final, whether subject to modification, revocation or remission regardless of the kind of action in which it is entered.

(k) "Register" means to file in the registry of foreign support orders as required by the court.

(L) "Certification" shall be in accordance with the laws of the certifying state.

SECTION 3. 52.10 (6) of the statutes is repealed and recreated to read:

52.10 (6) CONDITIONS OF INTERSTATE RENDITION. (a) Before making the demand on the governor of any other state for the surrender of a person charged in this state with the crime of failing to provide for the support of any person, the governor of this state may require any district attorney of this state to satisfy him that at least 60 days prior thereto the obligee brought an action for the support under this section, or that the bringing of an action would be of no avail.

(b) When under this or a substantially similar law, a demand is made upon the governor of this state by the governor of another state for the surrender of a person charged in the other state with the crime of failing to provide support, the governor may call upon any district attorney to investigate or assist in investigating the demand, and to report to him whether any action for support has been brought under this section or would be effective.

(c) If an action for the support would be effective and no action has been brought, the governor may delay honoring the demand for a reasonable time to permit prosecution of an action for support.

(d) If an action for support has been brought and the person demanded has prevailed in that action, the governor may decline to honor the demand.

(e) If an action for support has been brought and pursuant thereto the person demanded is subject to a support order, the governor may decline to honor the demand so long as the person demanded is complying with the support order.

SECTION 4. 52.10 (9) of the statutes is amended to read:

52.10 (9) HOW DUTIES OF SUPPORT ARE ENFORCED. Proceedings for enforcement of support, if the obligor is in this state, shall be commenced by summons and petition. The summons shall name a day certain for the appearance of the defendant. Proceedings under this section are special proceedings within the meaning of s. 260.03. Duties of support, *including arrearages*, are enforceable by petition irrespective of relationship between the obligor and obligee.

SECTION 5. 52.10 (14) of the statutes is amended to read:

52.10 (14) COSTS AND FEES. *There shall be no filing fee or other costs taxable to the obligee but* a court of this state acting either as an initiating or responding state may in its discretion direct that any part of or all fees and costs incurred in this state, including without limitation by

enumeration, fees for filing, service of process, seizure of property, and stenographic service of both petitioner and defendant or either, shall be paid by the *defendant or the county, state or other political subdivision*. Where the proceeding is brought by the state or a political subdivision thereof, there shall be no filing fee.

SECTION 6. 52.10 (17) of the statutes is renumbered 52.10 (18) and as so renumbered is amended to read:

52.10 (18) (a) When the court of this state, acting as a responding state, receives from the court of an initiating state the material mentioned in sub. (13), * * * *the clerk of the court shall docket the cause * * * and notify the district attorney * * * of his action.*

(b) *The district attorney shall diligently prosecute the case. He shall take all action necessary in accordance with the laws of this state to give the court jurisdiction of the defendant or his property and shall request the court to set a time and place for a hearing.*

SECTION 7. 52.10 (18) of the statutes is renumbered 52.10 (19) and as renumbered is repealed and recreated to read:

52.10 (19) FURTHER DUTIES OF COURT AND OFFICIALS IN THE RESPONDING STATE. (a) The district attorney shall, on his own initiative, use all means at his disposal to trace the defendant or his property and if, due to inaccuracies of the petition or otherwise, the court cannot obtain jurisdiction, the district attorney shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended petition from the court in the initiating state.

(b) If the defendant or his property is not found in the county and the district attorney discovers by any means that the defendant or his property may be found in another county of this state or in another state he shall so inform the court and thereupon the clerk of the court shall forward the documents received from the court in the initiating state to a court in the other county or to a court in the other state or to the information agency or other proper official of the other state with a request that it forward the documents to the proper court. Thereupon both the court of the other county and any court of this state receiving the documents and the district attorney have the same powers and duties under this act as if the documents had been originally addressed to them. When the clerk of a court of this state retransmits documents to another court, he shall notify forthwith the court from which the documents came.

(c) If the district attorney has no information as to the whereabouts of the obligor or his property he shall so inform the initiating court.

SECTION 8. 52.10 (19) and (20) of the statutes are renumbered to be 52.10 (24) and (25).

SECTION 9. 52.10 (21) of the statutes is renumbered 52.10 (26) and as so renumbered 52.10 (26) (b) is amended to read:

52.10 (26) (b) To require the defendant to make payments at specified intervals to an officer of the court * * * and to report personally to such officer at such times as may be deemed necessary.

SECTION 10. 52.10 (21) of the statutes is created to read:

52.10 (21) HEARING AND DETERMINATION. If the petitioner is absent from the responding state and the defendant presents evidence which constitutes a defense, the court shall continue the case for further hearing and the submission of evidence by both parties.

SECTION 11. 52.10 (22) and (23) of the statutes are renumbered to be 52.10 (27) and (28); 52.10 (24) of the statutes is renumbered to be 52.10 (22).

SECTION 12. 52.10 (25) of the statutes is renumbered to be 52.10 (30) and as so renumbered is amended to read:

52.10 (30) APPLICATION OF PAYMENTS. * * * No order of support issued by a court of this state when acting as a responding state shall * * * supersede any * * * other order of support * * * but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both.

SECTION 13. 52.10 (26) of the statutes is renumbered to be 52.10 (31); 52.10 (27) of the statutes is renumbered to be 52.10 (50).

SECTION 14. 52.10 (29) of the statutes is created to read:

52.10 (29) PROCEEDINGS NOT TO BE STAYED. No proceeding under this section shall be stayed because of the existence of a pending action for divorce, separation, annulment, dissolution, habeas corpus or custody proceeding.

SECTION 15. 52.10 (32) of the statutes is created to read:

52.10 (32) INTER-COUNTY APPLICATION. This subsection is applicable when both the petitioner and the defendant are in this state but in different counties. If the court of the county in which this petition is filed finds that the petition sets forth facts from which it may be determined that the defendant owes a duty of support and finds that a court of another county in this state may obtain jurisdiction of the defendant or his property, the clerk of the court shall send 3 copies of the petition and a certification of the findings to the court of the county in which the defendant or his property is found. The clerk of the court of the county receiving these copies shall notify the district attorney of their receipt. The district attorney and the court in the county to which the copies are forwarded shall then have duties corresponding to those imposed upon them when acting for the state as a responding state.

SECTION 16. 52.10 (33) to (38) of the statutes are created to read:

52.10 (33) ADDITIONAL REMEDIES. If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in subs. (34) to (38).

(34) REGISTRATION. The obligee may register the foreign support order in a court of this state in the manner, with the effect and for the purposes provided in subs. (33) to (38). The district attorney may, but is not required, to initiate or participate in proceedings under subs. (33) to (38).

(35) REGISTRY OF FOREIGN SUPPORT ORDERS. The clerk of the court shall maintain a registry of foreign support orders in which he shall file foreign support orders.

(36) PETITION FOR REGISTRATION. The petition for registration shall be verified and shall set forth the amount remaining unpaid and a list of any other states in which the support order is registered and shall have attached to it a certified copy of the support order with all modifications thereof. The foreign support order is registered upon the filing of the petition subject only to subsequent order of confirmation.

(37) JURISDICTION AND PROCEDURE. The procedure to obtain jurisdiction of the person or property of the obligor shall be as provided in civil cases. The obligor may assert any defense available to a defendant in an action on a foreign judgment. If the obligor defaults, the court shall enter an order confirming the registered support order and determining the amounts remaining unpaid. If the obligor appears and a hearing is held, the court shall adjudicate the issues including the amounts remaining unpaid.

(38) EFFECT AND ENFORCEMENT. The support order as confirmed shall have the same effect and may be enforced as if originally entered in the court of this state. The procedures for the enforcement thereof shall be as in civil cases, including the power to punish the defendant for contempt as in the case of other orders for payment of alimony, maintenance or support entered in this state.

Approved August 14, 1959.
