

1993 Senate Bill 369

Date of enactment: **April 15, 1994**
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1993 WISCONSIN ACT 326

AN ACT to repeal 767.01 (2) (a) to (d), 767.075 (1) (d) and 767.65; **to renumber and amend** 767.01 (2) (intro.); **to amend** 48.988 (11), 48.989 (2), 49.19 (4) (d) 4, 59.39 (9m), 59.458 (2), 757.52, 767.02 (1) (f), 767.025 (2) (a) (intro.) and (3), 767.05 (1), 767.265 (2h), 767.45 (5m), 801.05 (11), 802.11 (1) (intro.), 814.04 (intro.), 814.61 (1) (c) and (7) (c) and 978.06 (6); and **to create** ch. 769 of the statutes, **relating to**: a uniform interstate family support act.

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

SECTION 1. 48.988 (11) of the statutes is amended to read:

48.988 (11) Financial responsibility for any child placed under the interstate compact on the placement of children shall be determined in accordance with sub. (5) in the first instance. However, in the event of partial or complete default of performance thereunder, the provisions of s. 49.90, or 767.42 or 767.65, ch. 769 or of any other applicable state law fixing responsibility for the support of children also may be invoked.

SECTION 2. 48.989 (2) of the statutes is amended to read:

48.989 (2) **FINANCIAL RESPONSIBILITY.** Financial responsibility for any child placed under the provisions of the interstate compact on the placement of children shall be determined in accordance with ss. 48.60 (4) (b) and 48.988 (5). In the event of partial or complete default of performance under the compact, the provisions of s. 49.90, or 767.42 or 767.65, ch. 769 or of any other applicable state law fixing responsibility for the support of children may also be invoked.

SECTION 3. 49.19 (4) (d) 4. of the statutes is amended to read:

49.19 (4) (d) 4. Is the wife of a husband who has continuously abandoned or failed to support her, if proceedings have been commenced against the husband under s. 767.65 ch. 769; or

SECTION 4. 59.39 (9m) of the statutes is amended to read:

59.39 (9m) Keep a record of all payments and arrearages in payments ordered by the court under ss. 767.25 to 767.265, under s. 767.29 (1), or 767.51 and 767.65 or under ch. 769 or ordered by a court in another county or jurisdiction but enforced or received by the clerk's court. If the department of health and social services operates a data system relating to those payments and arrearages, the clerk shall use that system to keep this record.

SECTION 5. 59.458 (2) of the statutes is amended to read:

59.458 (2) Attorneys responsible for support enforcement under sub. (1) shall institute, commence, appear in or perform other prescribed duties in actions or proceedings under ss. 46.25 (7), 59.07 (97), 767.075, 767.08, and 767.45 and 767.65 ch. 769.

SECTION 6. 757.52 of the statutes is amended to read:

757.52 Guardian ad litem for persons not in being or unascertainable. In any action or proceeding, ~~except as provided in s. 767.65,~~ the court may appoint a guardian ad litem for persons not in being or presently unascertainable, if the court has reason to believe that such appointment is necessary to protect the interests of such persons.

SECTION 7c. 767.01 (2) (intro.) of the statutes is renumbered 767.01 (2) and amended to read:

767.01 (2) In an action to establish paternity or to establish or enforce a child support obligation, in regard to a child who is the subject of the action, a person is subject to the jurisdiction of the courts of this state ~~if any of~~

the following circumstances exists: as provided in s. 769.201 or 801.05.

SECTION 7d. 767.01 (2) (a) to (d) of the statutes are repealed.

SECTION 8. 767.02 (1) (f) of the statutes is amended to read:

767.02 (1) (f) For child support, ~~including an action under s. 767.65.~~

SECTION 9. 767.025 (2) (a) (intro.) and (3) of the statutes are amended to read:

767.025 (2) (a) (intro.) If Except as provided in ch. 769, if the petition, motion or order to show cause is for enforcement or modification of a child support, family support or maintenance order, the petition, motion or order to show cause shall be filed in the county in which the original judgment or order was rendered or in the county where the minor children reside unless any of the following applies:

(3) If Except as provided in s. 769.316 (3), if an enforcement or modification petition, motion or order to show cause is filed in a county other than the county in which the original judgment or order was rendered under sub. (2) (a), the clerk of court from the court that rendered the original judgment or order shall send a copy of any payment records associated with the original judgment or order of child support, family support or maintenance to the clerk of court in the county in which the petition, motion or order to show cause is filed.

SECTION 10. 767.05 (1) of the statutes is amended to read:

767.05 (1) JURISDICTION. A court of this state having jurisdiction to hear actions affecting the family may exercise jurisdiction as provided under ch. 769 or 801 except that personal jurisdiction is limited by s. 801.05 (11).

SECTION 11. 767.075 (1) (d) of the statutes is repealed.

SECTION 11m. 767.265 (2h) of the statutes is amended to read:

767.265 (2h) If a court-ordered assignment does not require immediately effective withholding and a payer fails to make a required maintenance, child support, spousal support or family support payment within 10 days after its due date, ~~or if the court or family court commissioner receives notice of assignment for withholding required under similar laws of another state, within 20 days after the payment's due date or within 10 days after receipt of notice for withholding under laws of another state the court or family court commissioner shall cause the assignment to go into effect and shall send a notice by regular mail to the last-known address of the payer. The notice shall inform the payer that an assignment is in effect and that the payer may, within a 10-day period, by motion request a hearing on the issue of whether the assignment should remain in effect. The court or family court commissioner shall hold a hearing requested under this section within 10 working days after the date of the~~

request. If at the hearing the payer establishes that the assignment is not proper because of a mistake of fact, the court or family court commissioner may direct that the assignment be withdrawn. If the payer does not request a hearing, the court or family court commissioner shall send notice of the assignment to the person from whom the payer receives or will receive money. Either party may, within 15 working days after the date of the decision by a family court commissioner under this section, seek review of the decision by the court with jurisdiction over the action.

SECTION 12. 767.45 (5m) of the statutes is amended to read:

767.45 (5m) Except as provided under s. ss. 767.458 (3) and 769.401, unless a man is either presumed the child's father under s. 891.41 or adjudicated the child's father either under s. 767.51 or by final order or judgment of a court of competent jurisdiction in another state, no order or temporary order may be entered for child support, legal custody or physical placement until the man is adjudicated the father using the procedure set forth in ss. 767.45 to 767.60. ~~The Except as provided in s. 769.401,~~ the exclusive procedure for establishment of child support obligations, legal custody or physical placement rights for a man who is neither presumed the child's father under s. 891.41 nor adjudicated the father is by an action under ss. 767.45 to 767.60 or under s. 769.701. No person may waive the use of this procedure. If a presumption under s. 891.41 exists, a party denying paternity has the burden of rebutting the presumption.

SECTION 13. 767.65 of the statutes is repealed.

SECTION 14. Chapter 769 of the statutes is created to read:

CHAPTER 769 UNIFORM INTERSTATE FAMILY SUPPORT ACT SUBCHAPTER I GENERAL PROVISIONS

769.101 Definitions. In this chapter:

(1) "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 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" means an obligation imposed or imposable by law to provide support for a child, spouse or former spouse, including an unsatisfied obligation to provide support.

(4) "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 the filing of a petition or comparable pleading for support or, if a child is less than 6 months old, the state in which

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the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the 6-month or other period.

(5) “Income” includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of this state.

(6) “Income–withholding order” means an order, notice or other legal process directed to an obligor’s employer or other debtor to withhold support from the income of, or other money owed to, the obligor.

(7) “Initiating state” means a state in which a proceeding under this chapter or a law substantially similar to this chapter, the uniform reciprocal enforcement of support act or the revised uniform reciprocal enforcement of support act is filed for forwarding to a responding state.

(8) “Initiating tribunal” means the authorized tribunal in an initiating state.

(9) “Issuing state” means the state in which a tribunal issues a support order or renders a judgment determining parentage.

(10) “Issuing tribunal” means the tribunal that issues a support order or renders a judgment determining parentage.

(11) “Law” includes decisional and statutory law and rules and regulations having the force of law.

(12) “Obligee” means any of the following:

(a) 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 state or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee.

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

(13) “Obligor” means an individual, or the estate of a decedent, to whom any of the following applies:

(a) The individual or decedent owes or is alleged to owe a duty of support.

(b) The individual or decedent is alleged but has not been adjudicated to be a parent of a child.

(c) The individual or decedent is liable under a support order.

(14) “Register” means to file a support order or judgment determining parentage with the clerk of court.

(15) “Registering tribunal” means a tribunal in which a support order is registered.

(16) “Responding state” means a state to which a proceeding is forwarded under this chapter or a law substantially similar to this chapter, the uniform reciprocal enforcement of support act or the revised uniform reciprocal enforcement of support act.

(17) “Responding tribunal” means the authorized tribunal in a responding state.

(18) “Spousal–support order” means a support order for a spouse or former spouse of the obligor.

(19) “State” means a state of the United States, the district of Columbia, the commonwealth of Puerto Rico or any territory or insular possession subject to the jurisdiction of the United States. “State” includes an Indian tribe and includes a foreign jurisdiction that has established procedures for issuance and enforcement of support orders that are substantially similar to the procedures under this chapter.

(20) “Support enforcement agency” means a public official or agency authorized to seek any of the following:

(a) Enforcement of support orders or laws relating to the duty of support.

(b) Establishment or modification of child support.

(c) Determination of parentage.

(d) Location of obligors or their assets.

(21) “Support order” means a judgment, decree or order, whether temporary, final or subject to modification, for the benefit of a child, a spouse or a former spouse, that provides for monetary support, health care, arrearages or reimbursement, and that may include related costs and fees, interest, income withholding, attorney fees and other relief.

(22) “Tribunal” means a court, administrative agency or quasi-judicial entity authorized to establish, enforce or modify support orders or to determine parentage in this state or in an issuing or responding state.

769.102 Tribunal of this state. The courts and court commissioners are the tribunal of this state.

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

SUBCHAPTER II JURISDICTION

769.201 Bases for jurisdiction over nonresident.

In a proceeding under this chapter to establish, enforce or modify a support order or to determine parentage, a tribunal of this state may exercise personal jurisdiction over a nonresident individual, or the individual’s guardian or conservator, if any of the following applies:

(1) The individual is personally served with a summons or other 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.

(7) The individual asserted parentage in a declaration of paternal interest filed with the department of health and social services under s. 48.025 or in a statement acknowledging paternity filed with the state registrar under s. 69.15 (3) (b) 1. or 3.

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

769.202 Procedure when exercising jurisdiction over nonresident. A tribunal of this state exercising personal jurisdiction over a nonresident under s. 769.201 may apply s. 769.316 to receive evidence from another state and s. 769.318 to obtain discovery through a tribunal of another state. In all other respects, subchs. III to VII 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 chapter.

769.203 Initiating and responding tribunal of this state. Under this chapter, 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.

769.204 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 all of the following apply:

(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.

(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 all of the following apply:

(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.

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

769.205 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 for 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 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 chapter.

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

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

(b) Enforce nonmodifiable aspects of that order.

(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 issued a child support order under a law substantially similar to this chapter.

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

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

769.206 Enforcement and modification of support order by tribunal having continuing jurisdiction. (1) A tribunal of this state may serve as an initiating tribunal to request a tribunal of another state to enforce or modify a support order issued in that state.

(2) A tribunal of this state having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply s. 769.316 to receive evidence from another state and s. 769.318 to obtain discovery through a tribunal of another state.

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

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

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

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

(c) If 2 or more tribunals have issued child support orders for the same obligor and child and more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter, an order issued by a tribunal in the current home state of the child must be recognized, but if an order has not been issued in the current home state of the child, the order most recently issued must be recognized.

(d) If 2 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 chapter, 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 sub. (1) is the tribunal having continuing, exclusive jurisdiction.

769.208 Multiple child support orders for 2 or more obligees. In responding to multiple registrations or petitions for enforcement of 2 or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state, a tribunal of this state shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this state.

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

SUBCHAPTER III**CIVIL PROVISIONS OF GENERAL APPLICATION****769.301 Proceedings under this chapter. (1)**

Except as otherwise provided in this chapter, this subchapter applies to all proceedings under this chapter.

(2) This chapter provides for all of the following proceedings:

(a) Under subch. IV, establishment of an order for spousal support or child support.

(b) Under subch. V, enforcement of a support order and income-withholding order of another state without registration.

(c) Under subch. VI, registration of an order for spousal support or child support of another state for enforcement.

(d) Under subch. II, modification of an order for child support or spousal support issued by a tribunal of this state.

(e) Under subch. VI, registration of an order for child support of another state for modification.

(f) Under subch. VII, determination of parentage.

(g) Under subch. II, assertion of jurisdiction over nonresidents.

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

769.302 Action by minor parent. A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child. Notwithstanding s. 767.045 (1) or 803.01 (3), the court may appoint a guardian ad litem for the minor's child, but the court need not appoint a guardian ad litem for a minor parent who maintains such a proceeding unless the proceeding is one for the determination of parentage, in which case the court or a family court commissioner shall appoint a guardian ad litem for a minor parent within this state who maintains such a proceeding or for a minor within this state who is alleged to be a parent, as provided in s. 767.475 (1).

769.303 Application of law of this state. Except as otherwise provided by this chapter, a responding tribunal of this state shall do all of the following:

(1) 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.

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

769.304 Duties of initiating tribunal. Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward 3 copies of the petition and its accompanying documents to the responding tribunal or appropriate support enforcement agency in the responding state, or if the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to

the appropriate tribunal and that receipt be acknowledged.

769.305 Duties and powers of responding tribunal. (1) Whenever a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly under s. 769.301 (3), it shall cause the petition or pleading to be filed and notify the petitioner by 1st class mail, or if the petition was filed by a support enforcement agency, notify the support enforcement agency by any federally approved transmittal system, where and when it was filed.

(2) A responding tribunal of this state, to the extent otherwise authorized by law, may do any 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 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 an order under s. 818.02 (1) (f) for the arrest of an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the order for arrest 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.

(L) Grant any other available remedy.

(3) A responding tribunal of this state shall include in a support order issued under this chapter, 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 chapter upon compliance by a party with provisions for visitation.

(5) If a responding tribunal of this state issues an order under this chapter, the tribunal shall send a copy of the order by 1st class mail to the petitioner and the respondent and to the initiating tribunal, if any.

769.306 Inappropriate tribunal. If a petition or comparable pleading is received by an inappropriate tri-

bunal 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 1st class mail, or if the petition was filed by a support enforcement agency, notify the support enforcement agency by any federally approved transmittal system, where and when the pleading was sent.

769.307 Duties of support enforcement agency.

(1) A support enforcement agency of this state, upon request, shall provide services to a petitioner in a proceeding under this chapter.

(2) A support enforcement agency that is providing services to the petitioner shall do all of the following 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) Within 10 days, exclusive of Saturdays, Sundays and legal holidays, after receipt of a written notice from an initiating, responding or registering tribunal, send a copy of the notice by 1st class mail to the petitioner.

(e) Within 10 days, exclusive of Saturdays, Sundays and legal holidays, after receipt of a written communication from the respondent or the respondent's attorney, send a copy of the communication by 1st class mail to the petitioner.

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

(3) This chapter 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 nor does this chapter affect an attorney-client relationship or a fiduciary relationship that arises under other law.

769.308 Duty of attorney general. If the attorney general determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the attorney general may order the agency to perform its duties under this chapter or may provide those services directly to the individual.

769.309 Private counsel. An individual may employ private counsel to represent the individual in proceedings authorized by this chapter.

769.31 Duties of state information agency. (1) The department of health and social services is the state information agency under this chapter.

(2) The state information agency shall do all of the following:

(a) Compile and maintain a current list, including addresses, of the tribunals in this state that have jurisdic-

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tion under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state.

(b) Maintain a register of tribunals and support enforcement agencies received from other states.

(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 chapter received from an initiating tribunal or the state information agency of the initiating state.

(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.

769.311 Pleadings and accompanying documents.

(1) A petitioner seeking to establish or modify a support order or to determine parentage in a proceeding under this chapter must verify the petition. Unless otherwise ordered under s. 769.312, the petition or accompanying documents must provide, so far as known, the names, residential addresses, social security numbers and dates of birth 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 support enforcement agency.

769.312 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 chapter.

769.313 Costs and fees. (1) The petitioner may not be required to pay a filing fee or other costs.

(2) If an obligee prevails, a responding tribunal may assess against an obligor filing fees, reasonable attorney fees, other costs and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs or

expenses against the obligee or the support enforcement agency of either the initiating or the responding state, except as provided by other law. Attorney fees may be taxed as costs and may be ordered paid directly to the attorney, who may enforce the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs and expenses.

(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 subch. VI, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

769.314 Limited immunity of petitioner. (1) Participation by a petitioner in a proceeding before a responding tribunal, whether in person, by private attorney or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.

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

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

769.315 Nonparentage as defense. A party whose parentage of a child has been previously determined by or under law may not plead nonparentage as a defense to a proceeding under this chapter.

769.316 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 the rendition of a judgment determining parentage.

(2) A verified petition, affidavit, document substantially complying with federally mandated forms, or 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, or for prenatal and postnatal health care of the mother and child, or copies of reports of medical assistance payments under ss. 49.45 to 49.47 for such testing or prenatal and postnatal health care, furnished to the adverse party at least 10 days before trial, are admissible in evidence to prove the amount of the charges billed or the amount of the medical assistance paid and that the charges or payments 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 chapter, 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 chapter.

(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 chapter.

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

769.318 Assistance with discovery. A tribunal of this state may do all of the following:

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

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

769.319 Receipt and disbursement of payments. A support enforcement agency or tribunal of this state shall disburse promptly any amounts received under a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another state a certified statement by the custodian of the record of the amounts and dates of all payments received.

SUBCHAPTER IV

ESTABLISHMENT OF SUPPORT ORDER

769.401 Petition to establish support order. (1) If a support order entitled to recognition under this chapter has not been issued, a responding tribunal of this state may issue a support order if any of the following applies:

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

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

(2) The tribunal may issue a temporary child support order if any of the following applies:

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

(b) The respondent has been determined by or under law to be the parent.

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

(3) Upon finding, after notice and an 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 under s. 769.305.

SUBCHAPTER V

DIRECT ENFORCEMENT OF ORDER OF ANOTHER STATE WITHOUT REGISTRATION

769.501 Recognition of income-withholding order of another state. (1) An income-withholding order issued in another state may be sent by 1st class mail to the obligor's employer without first filing a petition or comparable pleading or registering the order with a tribunal of this state. Upon receipt of the order, the employer shall do all of the following:

(a) Treat an income-withholding order issued in another state that appears regular on its face as if it had been issued by a tribunal of this state.

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

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

(2) An obligor may contest the validity or enforcement of an income-withholding order issued in another state in the same manner as if the order had been issued by a tribunal of this state. Section 769.604 applies to the contest. The obligor shall give notice of the contest to any support enforcement agency providing services to the obligee and to either of the following:

(a) The person or agency designated to receive payments in the income-withholding order.

(b) If no person or agency is designated, the obligee.

769.502 Administrative enforcement of orders.

(1) A party seeking to enforce a support order or an income-withholding order, or both, issued by a tribunal of another state may send the documents required for registering the order to a support enforcement agency of this state.

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

1993 Senate Bill 369**SUBCHAPTER VI****ENFORCEMENT AND MODIFICATION OF
SUPPORT ORDER AFTER REGISTRATION**

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

769.602 Procedure to register order for enforcement. (1) A support order or income–withholding order of another state may be registered in this state by sending all of the following documents and information to the appropriate tribunal in this state:

(a) A letter of transmittal to the tribunal requesting registration and enforcement.

(b) Two copies, including one certified copy, of all orders to be registered, including any modification of an order.

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

(d) The name of the obligor and any of the following that are known:

1. The obligor’s address and social security number.
2. The name and address of the obligor’s employer and any other source of income of the obligor.
3. A description and the location of property of the obligor in this state not exempt from execution.

(e) Except as provided in s. 769.312, the name and address of the obligee and, if applicable, the agency or person to whom support payments are to be remitted.

(2) On receipt of a request for registration, the registering tribunal shall cause the order to be filed as a foreign judgment, together with one copy of the documents and information, regardless of their form.

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

769.603 Effect of registration for enforcement. (1) A support order or income–withholding order issued in another state is registered when the order is filed in the registering tribunal of this state.

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

(3) Except as otherwise provided in this subchapter, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

769.604 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.

769.605 Notice of registration of order. (1) Whenever 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 1st class, certified or registered mail or by any means of personal service authorized by the law of this state. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(2) The notice must inform the nonregistering party of all of the following:

(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 will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted.

(d) 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 under s. 767.265 (2r).

769.606 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 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 as provided in s. 769.607.

(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 1st class mail of the date, time and place of the hearing.

769.607 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) That the issuing tribunal lacked personal jurisdiction over the contesting party.

(b) That the order was obtained by fraud.

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

(d) That the issuing tribunal has stayed the order pending appeal.

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

(f) That full or partial payment has been made.

(g) That the statute of limitations under s. 769.604 (2) precludes enforcement of some or all of the arrearages.

(2) If a party presents evidence establishing a full or partial defense under sub. (1), a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence or 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 sub. (1) to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

769.608 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.

769.609 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 as provided in ss. 769.601 to 769.604 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

769.61 Effect of registration for modification. A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of s. 769.611 have been met.

769.611 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 responding tribunal of this state may modify that order only if, after notice and hearing, it finds at least one of the following:

(a) That all of the following requirements are met:

1. The child, the individual obligee and the obligor do not reside in the issuing state.

2. A petitioner who is a nonresident of this state seeks modification.

3. The respondent is subject to the personal jurisdiction of the tribunal of this state.

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

(2) Modification of a registered child support order is subject to the same requirements, procedures and defenses as 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 not modify any aspect of a child support order that may not be modified under the law of the issuing state.

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

(5) Within 30 days after issuance of a modified child support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows that earlier order has been registered.

769.612 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 under a law substantially similar to this chapter and, upon request, except as otherwise provided in this chapter, shall do all of the following:

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

(2) Enforce only nonmodifiable aspects of that order.

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

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

SUBCHAPTER VII

DETERMINATION OF PARENTAGE

769.701 Proceeding to determine parentage. (1)

A tribunal of this state may serve as an initiating or responding tribunal in a proceeding brought under this chapter or a law substantially similar to this chapter, the uniform reciprocal enforcement of support act or the revised uniform reciprocal enforcement of support act to determine that the petitioner is a parent of a particular child or to determine that a respondent is a parent of that child.

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

SUBCHAPTER VIII

INTERSTATE RENDITION

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769.801 Grounds for rendition. (1) For purposes of this subchapter, “governor” includes an individual performing the functions of governor or the executive authority of a state covered by this chapter.

(2) The governor of this state may do any of the following:

(a) Demand that the governor of another state surrender an individual found in the other state who is charged criminally in this state with having failed to provide for the support of an obligee.

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

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

769.802 Conditions of rendition. (1) Before making demand that the governor of another state surrender an individual charged criminally in this state with having failed to provide for the support of an obligee, the governor of this state may require a prosecutor of this state to demonstrate that at least 60 days previously the obligee had initiated proceedings for support under this chapter or that the proceeding would be of no avail.

(2) If, under this chapter or a law substantially similar to this chapter, the uniform reciprocal enforcement of support act or the revised uniform reciprocal enforcement of support act, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

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

SUBCHAPTER IX

MISCELLANEOUS PROVISIONS

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

769.903 Severability clause. If any provision of this chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

SECTION 15. 801.05 (11) of the statutes is amended to read:

801.05 (11) CERTAIN MARITAL ACTIONS. In addition to personal jurisdiction under sub. (1) and s. 801.06, in any action affecting the family, except for actions under ch. 769, in which a personal claim is asserted against the respondent commenced in the county in which the petitioner resides at the commencement of the action when the respondent resided in this state in marital relationship with the petitioner for not less than 6 consecutive months within the 6 years next preceding the commencement of the action and the respondent is served personally under s. 801.11. The effect of any determination of a child’s custody shall not be binding personally against any parent or guardian unless the parent or guardian has been made personally subject to the jurisdiction of the court in the action as provided under this chapter or has been notified under s. 822.05 as provided in s. 822.12.

SECTION 16. 802.11 (1) (intro.) of the statutes is amended to read:

802.11 (1) SCOPE. (intro.) In all contested civil actions and contested special proceedings except those under ss. 49.90, and 767.42 and 767.65 and chs. 48, 345, 769, 778 and 799, the judge shall, unless waived by the parties with the approval of the judge, and in all other civil actions and special proceedings the judge may, direct the attorneys for the parties to appear before the judge for a pretrial conference to determine whether an order should be entered on any or all of the following matters:

SECTION 17. 814.04 (intro.) of the statutes is amended to read:

814.04 Items of costs. (intro.) Except as provided in ss. 93.20, 101.22 (6) (i) and (6m) (a), 769.313, 814.025, 814.245, 895.035 (4), 895.75 (3), 943.212 (2) (b), 943.245 (2) (d) and 943.51 (2) (b), when allowed costs shall be as follows:

SECTION 18. 814.61 (1) (c) and (7) (c) of the statutes are amended to read:

814.61 (1) (c) Paragraphs (a) and (b) do not apply to any action to determine paternity brought by the state or its delegate under s. 767.45 (1) (g) or (h) or to an action under ch. 769.

(7) (c) Paragraphs (a) and (b) do not apply to a petition or motion filed by the state or its delegate in connection with an action to determine paternity under s. 767.45 (1) (g) or to a petition or motion filed in an action under ch. 769.

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SECTION 19. 978.06 (6) of the statutes is amended to read:

978.06 **(6)** No district attorney, deputy district attorney or assistant district attorney may appear in a civil action or proceedings ~~action or proceeding~~ under ~~ss. s.~~ 46.25 (7), 59.07 (97), 767.075, 767.08, or 767.45 and

~~767.65 or ch. 769.~~

SECTION 20. Initial applicability. This act first applies to proceedings under section 769.301 (2) of the statutes that are commenced on the effective date of this SECTION.