

No. 301, S.]

[Published June 10, 1953.

**CHAPTER 247**

AN ACT to renumber and amend 49.135; and to create 264.02 (1) (e) of the statutes, relating to a uniform and reciprocal law on enforcement of support of dependents.

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

SECTION 1. 49.135 of the statutes is renumbered 52.10 and amended to read:  
52.10 UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT. (1) PURPOSES. The purposes of this section are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto.

(2) DEFINITIONS. As used in this section unless the context requires otherwise:

(a) "State" includes any state, territory or possession of the United States in which this or a substantially similar reciprocal law has been enacted.

(b) "Initiating state" means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.

(c) "Responding state" means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced.

(d) "Court" means juvenile court or family court branch of circuit court and when the context requires, means the court of any other state as defined in a substantially similar reciprocal law.

(e) "Law" includes both common and statute law.

(f) "Duty of support" includes any duty of support imposed or imposable by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial separation, separate maintenance or otherwise.

(g) "Obligor" means any person owing a duty of support.

(h) "Obligee" means any person to whom a duty of support is owed.

(3) REMEDIES ADDITIONAL TO THOSE NOW EXISTING. The remedies herein provided are in addition to and not in substitution for any other remedies.

(4) OBLIGOR IN THIS STATE BOUND. \* \* \* *Duties of support \* \* \* arising under the \* \* \* law of this state \* \* \* when applicable under sub. (7) bind the obligor, present in this state, regardless of the presence or residence of the obligee.*

\* \* \* (5) EXTRADITION. The governor may demand from the governor of any other state the surrender of any person found in such other state who is charged in this state with the crime of failing to provide for the support of any person in this state. The governor may surrender on demand by the governor of any other state any person found in this state who is charged in such other state with the crime of failing to provide for the support of a person in such other state. The provisions for extradition of criminals not inconsistent herewith shall apply to any such demand although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom. Neither the demand, the oath nor any proceedings for extradition pursuant to this subsection need 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 or the other state.

(6) RELIEF FROM SUBSECTION (5). Any obligor *contemplated by sub. (5)* who submits to the jurisdiction of the court of such other state and complies with the court's order of support shall be relieved of extradition for desertion or nonsupport entered in the courts of this state during the period of such compliance.

\* \* \* (7) CHOICE OF LAW. Duties of support \* \* \* *applicable under this sec-*

tion are those imposed or imposable under the laws of any state where the \* \* \* obligor was present during the period for which support is sought \* \* \*. \* \* \* *The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.*

\* \* \* (8) REMEDIES OF A STATE OR POLITICAL SUBDIVISION FURNISHING SUPPORT. If the state or a political subdivision thereof has furnished support to an obligee it \* \* \* *has the same right to invoke the provisions \* \* \* of this section as the obligee to whom the support was furnished for the purpose of securing reimbursement of expenditures so made and of obtaining continuing support.*

(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 are enforceable by petition irrespective of relationship between the obligor and obligee.*

\* \* \* (10) CONTENTS OF PETITION FOR SUPPORT. The petition shall be verified and shall state the name and, so far as known to the petitioner, the address and circumstances of the defendant and his dependents for whom support is sought and all other pertinent information. *The petitioner may include in or attach to the petition any information which may help in locating or identifying the defendant including, but without limitation by enumeration, a photograph of the defendant, a description of any distinguishing marks of his person, other names and aliases by which he has been or is known, the name of his employer, his finger prints, or social security number.*

(11) OFFICIALS TO REPRESENT PETITIONER. *The district attorney upon the request of the court or the person in charge of county welfare activities shall, or upon his own initiative may, represent the petitioner in any proceeding under this section.*

(12) PETITION FOR A MINOR. *A petition on behalf of a minor obligee may be brought by a person having legal custody of the minor without appointment as guardian ad litem.*

\* \* \* (13) ACTION ON PETITION BY INITIATING COURT. If the court of this state acting as an initiating state finds that the petition sets forth facts from which it may be determined that the defendant owes a duty of support and that a court of the responding state may obtain jurisdiction of the defendant or his property, \* \* \* *it shall so certify and shall send \* \* \* 3 copies of the petition, \* \* \* of its certificate and \* \* \* of this section to the court of the responding state. If the name and address of such court is unknown and the responding state has an information agency comparable to that established in the initiating state it shall cause such copies to be transmitted to the state information agency or other proper official of the responding state, with a request that it forward them to the proper court, and that the court of the responding state acknowledge their receipt to the court of the initiating state.*

(14) COSTS AND FEES. *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 county. Where the proceeding is brought by the state or a political subdivision thereof, there shall be no filing fee.*

(15) JURISDICTION BY ARREST. *When the court of this state, acting either as an initiating or responding state, has reason to believe that the defendant may flee the jurisdiction it may (a) as an initiating state request in its certificate that the court of the responding state obtain the body of the defendant by appropriate process if that is permissible under the law of the responding state; or (b) as a responding state, obtain the body of the defendant by proceeding under ch. 264. No bond shall be required under s. 264.05, and the order under s. 264.06 shall require the sheriff to return the defendant on a named day.*

(16) STATE INFORMATION AGENCY. *The attorney-general is designated as the state information agency for purposes of this section. He shall:*

(a) *Compile a list of the courts in this state having jurisdiction under this section and their addresses and transmit it to the state information agency of every other state which has adopted this section or a substantially similar act.*

(b) *Maintain a register of such lists received from other states and transmit copies of such lists to every court in this state having jurisdiction under this section.*

\* \* \* (17) ACTION ON PETITION BY RESPONDING COURT. 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), it shall docket the cause, notify the district attorney, set a time and place for a hearing, and take action to obtain jurisdiction.

(18) FURTHER DUTY OF RESPONDING COURT. *If a court of this state, acting as a responding state, is unable to obtain jurisdiction of the defendant or his property due to inaccuracies or inadequacies in the petition or otherwise, the court shall communicate this fact to the court in the initiating state, shall on its own initiative use all means at its disposal*

to trace the defendant or his property, and shall hold the case pending the receipt of more accurate information or an amended petition from the court in the initiating state.

\* \* \* (19) ORDER OF SUPPORT. If the court of this state acting as the responding state finds a duty of support, it may order the defendant to furnish support or reimbursement therefor and subject the property of the defendant to such order.

\* \* \* (20) RESPONDING COURT TO TRANSMIT COPIES TO INITIATING COURT. The court of this state when acting as a responding state shall transmit to the court of the initiating state a copy of all orders of support or for reimbursement therefor.

\* \* \* (21) ORDERS TO DEFENDANT BY RESPONDING COURT. \* \* \* A court of this state when acting as the responding state has the power to subject the defendant to such terms and conditions as the court may deem proper to assure compliance with its orders and in particular:

(a) To require the defendant to furnish recognizance in the form of a cash deposit or bond of such character in such amount as the court may deem proper to assure payment of any amount required to be paid by the defendant.

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

(c) To punish the defendant who violates any order of the court to the same extent and in the same manner as is provided by law for *civil* contempt of court.

\* \* \* (22) HANDLING DEFENDANT'S PAYMENTS IN RESPONDING COURT. The court of this state when acting as a responding state shall have the following duties which may be carried out through an officer of the court:

(a) Upon the receipt of a payment made by the defendant pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state, and

(b) Upon request to furnish to the court of the initiating state a certified statement of all payments made by the defendant.

\* \* \* (23) HANDLING DEFENDANT'S PAYMENTS IN INITIATING COURT. The court of this state when acting as an initiating state shall have the duty which may be carried out through officers of the court to receive and disburse forthwith all payments made by the defendant or transmitted by the court of the responding state.

\* \* \* (24) EVIDENCE OF HUSBAND AND WIFE. Laws attaching a privilege against the disclosure of communications between the husband and wife are inapplicable to proceedings under this section. Husband and wife are competent witnesses and may be compelled to testify to any relevant matter, including marriage and parentage.

(25) APPLICATION OF PAYMENTS. *Any order of support issued by a court of this state when acting as a responding state shall not supersede any previous order of support issued in a divorce or separate maintenance action, 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.*

(26) EFFECT OF PARTICIPATION IN PROCEEDINGS. *Participation in any proceedings under this section shall not confer upon any court jurisdiction of any of the parties thereto in any other proceeding.*

SECTION 2. 264.02 (1) (e) of the statutes is created to read:

264.02 (1) (e) In a proceeding to enforce the duty of support under s. 52.10.

Approved June 3, 1953.

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