

“(5) avoid jurisdictional competition and conflict between State courts in matters of child custody and visitation which have in the past resulted in the shifting of children from State to State with harmful effects on their well-being; and

“(6) deter interstate abductions and other unilateral removals of children undertaken to obtain custody and visitation awards.”

STATE COURT PROCEEDINGS FOR CUSTODY DETERMINATIONS; PRIORITY TREATMENT; FEES, COSTS, AND OTHER EXPENSES

Pub. L. 96-611, §8(c), Dec. 28, 1980, 94 Stat. 3571, provided that: “In furtherance of the purposes of section 1738A of title 28, United States Code, as added by subsection (a) of this section, State courts are encouraged to—

“(1) afford priority to proceedings for custody determinations; and

“(2) award to the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, necessary travel expenses, attorneys’ fees, costs of private investigations, witness fees or expenses, and other expenses incurred in connection with such custody determination in any case in which—

“(A) a contestant has, without the consent of the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, (i) wrongfully removed the child from the physical custody of such person, or (ii) wrongfully retained the child after a visit or other temporary relinquishment of physical custody; or

“(B) the court determines it is appropriate.”

§ 1738B. Full faith and credit for child support orders

(a) GENERAL RULE.—The appropriate authorities of each State—

(1) shall enforce according to its terms a child support order made consistently with this section by a court of another State; and

(2) shall not seek or make a modification of such an order except in accordance with subsections (e), (f), and (i).

(b) DEFINITIONS.—In this section:

“child” means—

(A) a person under 18 years of age; and

(B) a person 18 or more years of age with respect to whom a child support order has been issued pursuant to the laws of a State.

“child’s State” means the State in which a child resides.

“child’s 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 any of them. A period of temporary absence of any of them is counted as part of the 6-month period.

“child support” means a payment of money, continuing support, or arrearages or the provision of a benefit (including payment of health insurance, child care, and educational expenses) for the support of a child.

“child support order”—

(A) means a judgment, decree, or order of a court requiring the payment of child support in periodic amounts or in a lump sum; and

(B) includes—

(i) a permanent or temporary order; and

(ii) an initial order or a modification of an order.

“contestant” means—

(A) a person (including a parent) who—

(i) claims a right to receive child support;

(ii) is a party to a proceeding that may result in the issuance of a child support order; or

(iii) is under a child support order; and

(B) a State or political subdivision of a State to which the right to obtain child support has been assigned.

“court” means a court or administrative agency of a State that is authorized by State law to establish the amount of child support payable by a contestant or make a modification of a child support order.

“modification” means a change in a child support order that affects the amount, scope, or duration of the order and modifies, replaces, supersedes, or otherwise is made subsequent to the child support order.

“State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and Indian country (as defined in section 1151 of title 18).

(c) REQUIREMENTS OF CHILD SUPPORT ORDERS.—A child support order made by a court of a State is made consistently with this section if—

(1) a court that makes the order, pursuant to the laws of the State in which the court is located and subsections (e), (f), and (g)—

(A) has subject matter jurisdiction to hear the matter and enter such an order; and

(B) has personal jurisdiction over the contestants; and

(2) reasonable notice and opportunity to be heard is given to the contestants.

(d) CONTINUING JURISDICTION.—A court of a State that has made a child support order consistently with this section has continuing, exclusive jurisdiction over the order if the State is the child’s State or the residence of any individual contestant unless the court of another State, acting in accordance with subsections (e) and (f), has made a modification of the order.

(e) AUTHORITY TO MODIFY ORDERS.—A court of a State may modify a child support order issued by a court of another State if—

(1) the court has jurisdiction to make such a child support order pursuant to subsection (i); and

(2)(A) the court of the other State no longer has continuing, exclusive jurisdiction of the child support order because that State no longer is the child’s State or the residence of any individual contestant; or

(B) each individual contestant has filed written consent with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume continuing, exclusive jurisdiction over the order.

(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If 1 or more child support orders have been issued

with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

(1) If only 1 court has issued a child support order, the order of that court must be recognized.

(2) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

(3) If 2 or more courts have issued child support orders for the same obligor and child, and more than 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court 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.

(4) If 2 or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court having jurisdiction over the parties shall issue a child support order, which must be recognized.

(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction under subsection (d).

(g) ENFORCEMENT OF MODIFIED ORDERS.—A court of a State that no longer has continuing, exclusive jurisdiction of a child support order may enforce the order with respect to nonmodifiable obligations and unsatisfied obligations that accrued before the date on which a modification of the order is made under subsections (e) and (f).

(h) CHOICE OF LAW.—

(1) IN GENERAL.—In a proceeding to establish, modify, or enforce a child support order, the forum State's law shall apply except as provided in paragraphs (2) and (3).

(2) LAW OF STATE OF ISSUANCE OF ORDER.—In interpreting a child support order including the duration of current payments and other obligations of support, a court shall apply the law of the State of the court that issued the order.

(3) PERIOD OF LIMITATION.—In an action to enforce arrears under a child support order, a court shall apply the statute of limitation of the forum State or the State of the court that issued the order, whichever statute provides the longer period of limitation.

(i) REGISTRATION FOR MODIFICATION.—If there is no individual contestant or child residing in the issuing State, the 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 a State with jurisdiction over the nonmovant for the purpose of modification.

(Added Pub. L. 103-383, §3(a), Oct. 20, 1994, 108 Stat. 4064; amended Pub. L. 104-193, title III, §322, Aug. 22, 1996, 110 Stat. 2221; Pub. L. 105-33, title V, §5554, Aug. 5, 1997, 111 Stat. 636.)

AMENDMENTS

1997—Subsec. (f)(4). Pub. L. 105-33, §5554(1), substituted “a court having jurisdiction over the parties shall issue a child support order, which must be recognized.” for “a court may issue a child support order, which must be recognized.”

Subsec. (f)(5). Pub. L. 105-33, §5554(2), inserted “under subsection (d)” after “jurisdiction”.

1996—Subsec. (a)(2). Pub. L. 104-193, §322(1), substituted “subsections (e), (f), and (i)” for “subsection (e)”.

Subsec. (b). Pub. L. 104-193, §322(2), inserted par. defining “child’s home State”.

Subsec. (c). Pub. L. 104-193, §322(3), inserted “by a court of a State” before “is made” in introductory provisions.

Subsec. (c)(1). Pub. L. 104-193, §322(4), inserted “and subsections (e), (f), and (g)” after “located”.

Subsec. (d). Pub. L. 104-193, §322(5), inserted “individual” before “contestant” and substituted “subsections (e) and (f)” for “subsection (e)”.

Subsec. (e). Pub. L. 104-193, §322(6), substituted “modify a child support order issued” for “make a modification of a child support order with respect to a child that is made” in introductory provisions.

Subsec. (e)(1). Pub. L. 104-193, §322(7), inserted “pursuant to subsection (i)” after “order”.

Subsec. (e)(2). Pub. L. 104-193, §322(8), inserted “individual” before “contestant” in subpars. (A) and (B) and substituted “with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume” for “to that court’s making the modification and assuming” in subpar. (B).

Subsec. (f). Pub. L. 104-193, §322(10), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 104-193, §322(11), substituted “Modified” for “Prior” in heading and “subsections (e) and (f)” for “subsection (e)” in text.

Pub. L. 104-193, §322(9), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 104-193, §322(12), inserted “including the duration of current payments and other obligations of support” before comma in par. (2) and “arrears under” after “enforce” in par. (3).

Pub. L. 104-193, §322(9), redesignated subsec. (g) as (h).

Subsec. (i). Pub. L. 104-193, §322(13), added subsec. (i).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in enactment of title III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5557 of Pub. L. 105-33, set out as a note under section 608 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date of amendment by Pub. L. 104-193, see section 395(a)-(c) of Pub. L. 104-193, set out as a note under section 654 of Title 42, The Public Health and Welfare.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Pub. L. 103-383, §2, Oct. 20, 1994, 108 Stat. 4063, provided that:

“(a) FINDINGS.—The Congress finds that—

“(1) there is a large and growing number of child support cases annually involving disputes between parents who reside in different States;

“(2) the laws by which the courts of different jurisdictions determine their authority to establish child support orders are not uniform;

“(3) those laws, along with the limits imposed by the Federal system on the authority of each State to take certain actions outside its own boundaries—

“(A) encourage noncustodial parents to relocate outside the States where their children and the custodial parents reside to avoid the jurisdiction of the courts of such States, resulting in an increase in

the amount of interstate travel and communication required to establish and collect on child support orders and a burden on custodial parents that is expensive, time consuming, and disruptive of occupations and commercial activity;

“(B) contribute to the pressing problem of relatively low levels of child support payments in interstate cases and to inequities in child support payments levels that are based solely on the non-custodial parent’s choice of residence;

“(C) encourage a disregard of court orders resulting in massive arrearages nationwide;

“(D) allow noncustodial parents to avoid the payment of regularly scheduled child support payments for extensive periods of time, resulting in substantial hardship for the children for whom support is due and for their custodians; and

“(E) lead to the excessive relitigation of cases and to the establishment of conflicting orders by the courts of various jurisdictions, resulting in confusion, waste of judicial resources, disrespect for the courts, and a diminution of public confidence in the rule of law; and

“(4) among the results of the conditions described in this subsection are—

“(A) the failure of the courts of the States to give full faith and credit to the judicial proceedings of the other States;

“(B) the deprivation of rights of liberty and property without due process of law;

“(C) burdens on commerce among the States; and

“(D) harm to the welfare of children and their parents and other custodians.

“(b) STATEMENT OF POLICY.—In view of the findings made in subsection (a), it is necessary to establish national standards under which the courts of the various States shall determine their jurisdiction to issue a child support order and the effect to be given by each State to child support orders issued by the courts of other States.

“(c) PURPOSES.—The purposes of this Act [enacting this section and provisions set out as a note under section 1 of this title] are—

“(1) to facilitate the enforcement of child support orders among the States;

“(2) to discourage continuing interstate controversies over child support in the interest of greater financial stability and secure family relationships for the child; and

“(3) to avoid jurisdictional competition and conflict among State courts in the establishment of child support orders.”

§ 1738C. Certain acts, records, and proceedings and the effect thereof

No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship.

(Added Pub. L. 104–199, §2(a), Sept. 21, 1996, 110 Stat. 2419.)

§ 1739. State and Territorial nonjudicial records; full faith and credit

All nonjudicial records or books kept in any public office of any State, Territory, or Possession of the United States, or copies thereof, shall be proved or admitted in any court or office in any other State, Territory, or Possession by the attestation of the custodian of such records or books, and the seal of his office an-

nexed, if there be a seal, together with a certificate of a judge of a court of record of the county, parish, or district in which such office may be kept, or of the Governor, or secretary of state, the chancellor or keeper of the great seal, of the State, Territory, or Possession that the said attestation is in due form and by the proper officers.

If the certificate is given by a judge, it shall be further authenticated by the clerk or prothonotary of the court, who shall certify, under his hand and the seal of his office, that such judge is duly commissioned and qualified; or, if given by such Governor, secretary, chancellor, or keeper of the great seal, it shall be under the great seal of the State, Territory, or Possession in which it is made.

Such records or books, or copies thereof, so authenticated, shall have the same full faith and credit in every court and office within the United States and its Territories and Possessions as they have by law or usage in the courts or offices of the State, Territory, or Possession from which they are taken.

(June 25, 1948, ch. 646, 62 Stat. 947.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §688 (R.S. §906).

Words “Possession of the United States” were substituted for “or any country subject to the jurisdiction of the United States.”

Words “or copies thereof” were added in two places. Copies have always been used to prove records and books under section 688 of title 28, U.S.C., 1940 ed., and the addition of these words clarifies the former implied meaning of such section.

In the first paragraph of the revised section words “a judge of a court of record” were substituted for words “the presiding justice of the court” and in the second paragraph “judge” was substituted for “presiding justice” for convenience and without change of substance.

Words “and its Territories and Possessions” were added after “United States”, near the end of the section, in view of provisions of section 688 of title 28, U.S.C., 1940 ed., for the admission of records and books in any court or office in any other State, Territory, or “in any such country.” (Changed to “Possession” in this section.)

See also Rule 44 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.

§ 1740. Copies of consular papers

Copies of all official documents and papers in the office of any consul or vice consul of the United States, and of all official entries in the books or records of any such office, authenticated by the consul or vice consul, shall be admissible equally with the originals.

(June 25, 1948, ch. 646, 62 Stat. 947.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., §677 (R.S. §896; Apr. 5, 1906, ch. 1366, §3, 34 Stat. 100).

Words “authenticated by the consul or vice consul” were substituted for “certified under the hand and seal of such officer”, for clarity. Words “in the courts of the United States”, were omitted after “admissible”. Such papers should be so admitted in all courts consistently with sections 1738 and 1739 of this title.

See also Rule 44 of the Federal Rules of Civil Procedure.

Changes were made in phraseology.