

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1327

By: Holt

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5
6 AS INTRODUCED

7 An Act relating to the Uniform Interstate Family
8 Support Act; amending 43 O.S. 2011, Sections 601-204,
9 as amended by Section 9, Chapter 104, O.S.L. 2015,
10 601-205, as amended by Section 10, Chapter 104,
11 O.S.L. 2015, 601-206, as amended by Section 11,
12 Chapter 104, O.S.L. 2015, 601-210, as amended by
13 Section 15, Chapter 104, O.S.L. 2015, 601-307, as
14 amended by Section 20, Chapter 104, O.S.L. 2015, 601-
15 311, as amended by Section 23, Chapter 104, O.S.L.
16 2015, 601-314, 601-317, as amended by Section 27,
17 Chapter 104, O.S.L. 2015, 601-604, as amended by
18 Section 40, Chapter 104, O.S.L. 2015, 601-613, as
19 amended by Section 48, Chapter 104, O.S.L. 2015 and
20 Sections 55 and 59, Chapter 104, O.S.L. 2015 (43 O.S.
21 Supp. 2015, Sections 601-204, 601-205, 601-206, 601-
22 210, 601-307, 601-311, 601-317, 601-604, 601-613,
23 601-704 and 601-708), which relate to proceedings,
24 jurisdiction, enforcement, immunity, communications,
remedies and duties; conforming language; updating
statutory references; modifying format of certain
required communication; clarifying language;
clarifying requirements for certain immunity;
clarifying applicability of certain provisions; and
providing an effective date.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. AMENDATORY 43 O.S. 2011, Section 601-204, as
23 amended by Section 9, Chapter 104, O.S.L. 2015 (43 O.S. Supp. 2015,
24 Section 601-204), is amended to read as follows:

1 Section 601-204. A. A tribunal of this state may exercise
2 jurisdiction to establish a support order if the petition or
3 comparable pleading is filed after a petition or comparable pleading
4 is filed in another state or a foreign country only if:

5 1. The petition or comparable pleading in this state is filed
6 before the expiration of the time allowed in the other state or a
7 foreign country for filing a responsive pleading challenging the
8 exercise of jurisdiction by the other state or the foreign country;

9 2. The contesting party timely challenges the exercise of
10 jurisdiction in the other state or a foreign country; and

11 3. If relevant, this state is the home state of the child.

12 B. A tribunal of this state may not exercise jurisdiction to
13 establish a support order if the petition or comparable pleading is
14 filed before a petition or comparable pleading is filed in another
15 state or foreign country if:

16 1. The petition or comparable pleading in the other state or a
17 foreign country is filed before the expiration of the time allowed
18 in this state for filing a responsive pleading challenging the
19 exercise of jurisdiction by this state;

20 2. The contesting party timely challenges the exercise of
21 jurisdiction in this state; and

22 3. If relevant, the other state or a foreign country is the
23 home state of the child.
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1 SECTION 2. AMENDATORY 43 O.S. 2011, Section 601-205, as
2 amended by Section 10, Chapter 104, O.S.L. 2015 (43 O.S. Supp. 2015,
3 Section 601-205), is amended to read as follows:

4 Section 601-205. A. A tribunal of this state that has issued a
5 child support order consistent with the law of this state has and
6 shall exercise continuing, exclusive jurisdiction to modify its
7 child support order if the order is the controlling order and:

8 1. At the time of the filing of a request for modification,
9 this state is the residence of the obligor, the individual obligee,
10 or the child for whose benefit the support order is issued; or

11 2. Even if this state is not the residence of the obligor, the
12 individual obligee, or the child for whose benefit the support order
13 is issued, the parties consent in a record or in open court that the
14 tribunal of this state may continue to exercise jurisdiction to
15 modify its order.

16 B. A tribunal of this state issuing a child support order
17 consistent with the law of this state may not exercise continuing,
18 exclusive jurisdiction to modify the order if:

19 1. All of the parties who are individuals file consent in a
20 record with the tribunal of this state that a tribunal of another
21 state that has jurisdiction over at least one of the parties who is
22 an individual or that is located in the state of residence of the
23 child may modify the order and assume continuing, exclusive
24 jurisdiction; or

1 2. Its order is not the controlling order.

2 C. If a tribunal of another state which has issued a child
3 support order pursuant to the Uniform Interstate Family Support Act
4 or a law substantially similar to ~~this act~~ the Act which modifies a
5 child support order of a tribunal of this state, tribunals of this
6 state shall recognize the continuing, exclusive jurisdiction of the
7 tribunal of the other state.

8 D. A tribunal of this state that lacks continuing, exclusive
9 jurisdiction to modify a child support order may serve as an
10 initiating tribunal to request a tribunal of another state to modify
11 a support order issued in that state.

12 E. A temporary support order issued ex parte or pending
13 resolution of a jurisdictional conflict does not create continuing,
14 exclusive jurisdiction in the issuing tribunal.

15 SECTION 3. AMENDATORY 43 O.S. 2011, Section 601-206, as
16 amended by Section 11, Chapter 104, O.S.L. 2015 (43 O.S. Supp. 2015,
17 Section 601-206), is amended to read as follows:

18 Section 601-206. A. A tribunal of this state that has issued a
19 child support order consistent with the law of this state may serve
20 as an initiating tribunal to request a tribunal of another state to
21 enforce:

22 1. The order if the order is the controlling order and has not
23 been modified by a tribunal of another state that assumed
24

1 jurisdiction pursuant to ~~this act~~ the Uniform Interstate Family
2 Support Act; or

3 2. A money judgment for arrears of support and interest on the
4 order accrued before a determination that an order of a tribunal of
5 another state is the controlling order.

6 B. A tribunal of this state having continuing jurisdiction over
7 a support order may act as a responding tribunal to enforce the
8 order.

9 SECTION 4. AMENDATORY 43 O.S. 2011, Section 601-210, as
10 amended by Section 15, Chapter 104, O.S.L. 2015 (43 O.S. Supp. 2015,
11 Section 601-210), is amended to read as follows:

12 Section 601-210. A tribunal of this state exercising personal
13 jurisdiction over a nonresident in a proceeding under ~~this act~~ the
14 Uniform Interstate Family Support Act, under other law of this state
15 relating to a support order or recognizing a foreign support order
16 may receive evidence from outside this state pursuant to Section
17 601-316 of ~~Title 43 of the Oklahoma Statutes~~ this title, communicate
18 with a tribunal outside this state pursuant to Section 601-317 of
19 ~~Title 43 of the Oklahoma Statutes~~ this title, and obtain discovery
20 through a tribunal of another state pursuant to Section 601-318 of
21 ~~Title 43 of the Oklahoma Statutes~~ this title. In all other
22 respects, Articles 3 through 7 6 of this title do not apply and the
23 tribunal shall apply the procedural and substantive law of this
24 state.

1 SECTION 5. AMENDATORY 43 O.S. 2011, Section 601-307, as
2 amended by Section 20, Chapter 104, O.S.L. 2015 (43 O.S. Supp. 2015,
3 Section 601-307), is amended to read as follows:

4 Section 601-307. A. A support enforcement agency of this
5 state, upon request, shall provide services to a petitioner in a
6 proceeding under ~~this act~~ the Uniform Interstate Family Support Act.

7 B. A support enforcement agency of this state that is providing
8 services to the petitioner shall:

9 1. Take all steps necessary to enable an appropriate tribunal
10 of this state, another state or a foreign country to obtain
11 jurisdiction over the respondent;

12 2. Request an appropriate tribunal to set a date, time, and
13 place for a hearing;

14 3. Make a reasonable effort to obtain all relevant information,
15 including information as to income and property of the parties;

16 4. Within two (2) days, exclusive of Saturdays, Sundays, and
17 legal holidays, after receipt of a written notice in a record from
18 an initiating, responding, or registering tribunal, send a copy of
19 the notice to the petitioner;

20 5. Within two (2) days, exclusive of Saturdays, Sundays, and
21 legal holidays, after receipt of a ~~written~~ communication in a record
22 from the respondent or the respondent's attorney, send a copy of the
23 communication to the petitioner; and
24

1 6. Notify the petitioner if jurisdiction over the respondent
2 cannot be obtained.

3 C. A support enforcement agency of this state that requests
4 registration of a child support order in this state for enforcement
5 or for modification shall make reasonable efforts:

6 1. To ensure that the order to be registered is the controlling
7 order; or

8 2. If two or more child support orders exist and the identity
9 of the controlling order has not been determined, to ensure that a
10 request for such a determination is made in a tribunal having
11 jurisdiction to do so.

12 D. A support enforcement agency of this state that requests
13 registration and enforcement of a support order, arrears, or
14 judgment stated in a foreign currency shall convert the amounts
15 stated in the foreign currency into the equivalent amounts in
16 dollars under the applicable official or market exchange rate as
17 publicly reported.

18 E. A support enforcement agency of this state shall request a
19 tribunal of this state to issue a child support order and an income-
20 withholding order that redirect payment of current support, arrears,
21 and interest if requested to do so by a support enforcement agency
22 of another state pursuant to Section 601-319 of this title.

23 F. The Uniform Interstate Family Support Act does not create or
24 negate a relationship of attorney and client or other fiduciary

1 relationship between a support enforcement agency or the attorney
2 for the agency and the individual being assisted by the agency.

3 SECTION 6. AMENDATORY 43 O.S. 2011, Section 601-311, as
4 amended by Section 23, Chapter 104, O.S.L. 2015 (43 O.S. Supp. 2015,
5 Section 601-311), is amended to read as follows:

6 Section 601-311. A. In a proceeding under ~~this act~~ the Uniform
7 Interstate Family Support Act, a petitioner seeking to establish a
8 support order, to determine parentage of a child, or to register and
9 modify a support order of a tribunal of another state or a foreign
10 country must file a petition. Unless otherwise ordered under
11 Section 601-312 of this title, the petition or accompanying
12 documents must provide, so far as known, the name, residential
13 address, and social security numbers of the obligor and the obligee
14 or the parent and alleged parent, and the name, sex, residential
15 address, social security number, and date of birth of each child for
16 whose benefit support is sought or whose parentage is to be
17 determined. Unless filed at the time of registration, the petition
18 must be accompanied by a copy of any support order known to have
19 been issued by another tribunal. The petition may include any other
20 information that may assist in locating or identifying the
21 respondent.

22 B. The petition must specify the relief sought. The petition
23 and accompanying documents must conform substantially with the
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1 requirements imposed by the forms mandated by federal law for use in
2 cases filed by a support enforcement agency.

3 SECTION 7. AMENDATORY 43 O.S. 2011, Section 601-314, is
4 amended to read as follows:

5 Section 601-314. A. Participation by a petitioner in a
6 proceeding under ~~this act~~ the Uniform Interstate Family Support Act
7 before a responding tribunal, whether in person, by private
8 attorney, or through services provided by the support enforcement
9 agency, does not confer personal jurisdiction over the petitioner in
10 another proceeding.

11 B. A petitioner is not amenable to service of civil process
12 while physically present in this state to participate in a
13 proceeding under ~~this act~~ the Uniform Interstate Family Support Act.

14 C. The immunity granted by this section does not extend to
15 civil litigation based on acts unrelated to a proceeding under ~~this~~
16 ~~act~~ the Uniform Interstate Family Support Act committed by a party
17 while physically present in this state to participate in the
18 proceeding.

19 SECTION 8. AMENDATORY 43 O.S. 2011, Section 601-317, as
20 amended by Section 27, Chapter 104, O.S.L. 2015 (43 O.S. Supp. 2015,
21 Section 601-317), is amended to read as follows:

22 Section 601-317. A tribunal of this state may communicate with
23 a tribunal outside this state in a record or by telephone,
24 electronic mail or other means, to obtain information concerning the

1 laws, the legal effect of a judgment, decree or order of that
2 tribunal, and the status of a proceeding ~~in the other state or~~
3 ~~foreign country or political subdivision~~. A tribunal of this state
4 may furnish similar information by similar means to a tribunal
5 outside this state.

6 SECTION 9. AMENDATORY 43 O.S. 2011, Section 601-604, as
7 amended by Section 40, Chapter 104, O.S.L. 2015 (43 O.S. Supp. 2015,
8 Section 601-604), is amended to read as follows:

9 Section 601-604. A. Except as otherwise provided in subsection
10 D of this section, the law of the issuing state or a foreign country
11 governs:

12 1. The nature, extent, amount, and duration of current payments
13 under a registered support order;

14 2. The computation and payment of arrearages and accrual of
15 interest on the arrearages under the support order; and

16 3. The existence and satisfaction of other obligations under
17 the support order.

18 B. In a proceeding for arrears under a registered support
19 order, the statute of limitation of this state or of the issuing
20 state or foreign country, whichever is longer, applies.

21 C. A responding tribunal of this state shall apply the
22 procedures and remedies of this state to enforce current support and
23 collect arrears and interest due on a support order of another state
24 or foreign country registered in this state.

1 D. After a tribunal of this or another state determines which
2 is the controlling order and issues an order consolidating arrears,
3 if any, a tribunal of this state shall prospectively apply the law
4 of the state or foreign country issuing the controlling order,
5 including its law on interest on arrears, on current and future
6 support, and on consolidated arrears.

7 SECTION 10. AMENDATORY 43 O.S. 2011, Section 601-613, as
8 amended by Section 48, Chapter 104, O.S.L. 2015 (43 O.S. Supp. 2015,
9 Section 601-613), is amended to read as follows:

10 Section 601-613. A. If all of the parties who are individuals
11 reside in this state and the child does not reside in the issuing
12 state, a tribunal of this state has jurisdiction to enforce and to
13 modify the issuing state's child support order in a proceeding to
14 register that order.

15 B. A tribunal of this state exercising jurisdiction under this
16 section shall apply the provisions of Articles 1 and 2, this
17 article~~7~~, and the procedural and substantive law of this state to the
18 proceeding for enforcement or modification. Articles 3, 4, 5, 7,
19 and 8 do not apply.

20 SECTION 11. AMENDATORY Section 55, Chapter 104, O.S.L.
21 2015 (43 O.S. Supp. 2015, Section 601-704), is amended to read as
22 follows:
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1 Section 601-704. A. In a support proceeding under this
2 article, the Oklahoma Department of Human Services of this state
3 shall:

- 4 1. Transmit and receive applications; and
- 5 2. Initiate or facilitate the institution of a proceeding
6 regarding an application in a tribunal of this state.

7 B. The following support proceedings are available to an
8 obligee under the Convention:

9 1. Recognition or recognition and enforcement of a foreign
10 support order;

11 2. Enforcement of a support order issued or recognized in this
12 state;

13 3. Establishment of a support order if there is no existing
14 order, including, if necessary, determination of parentage of a
15 child;

16 4. Establishment of a support order if recognition of a foreign
17 support order is refused under ~~subparagraph b of paragraph 2 of~~
18 ~~Section 601-708 of Title 43 of the Oklahoma Statutes or paragraph~~
19 paragraphs 2, 4 or 9 of subsection B of Section 601-708 of ~~Title 43~~
20 ~~of the Oklahoma Statutes~~ this title;

21 5. Modification of a support order of a tribunal of this state;
22 and

23 6. Modification of a support order of a tribunal of another
24 state or a foreign country.

1 C. The following support proceedings are available under the
2 convention to an obligor against which there is an existing support
3 order:

4 1. Recognition of an order suspending or limiting enforcement
5 of an existing support order of a tribunal of this state;

6 2. Modification of a support order of a tribunal of this state;
7 and

8 3. Modification of a support order of a tribunal of another
9 state or a foreign country.

10 D. A tribunal of this state may not require security, bond or
11 deposit, however described, to guarantee the payment of costs and
12 expenses in proceedings under the convention.

13 SECTION 12. AMENDATORY Section 59, Chapter 104, O.S.L.
14 2015 (43 O.S. Supp. 2015, Section 601-708), is amended to read as
15 follows:

16 Section 601-708. A. Except as otherwise provided in subsection
17 B of this section, a tribunal of this state shall recognize and
18 enforce a registered convention support order.

19 B. The following grounds are the only grounds on which a
20 tribunal of this state may refuse recognition and enforcement of a
21 registered convention support order:

22 1. Recognition and enforcement of the order is manifestly
23 incompatible with public policy, including the failure of the
24

1 issuing tribunal to observe minimum standards of due process, which
2 include notice and an opportunity to be heard;

3 2. The issuing tribunal lacked personal jurisdiction consistent
4 with Section 601-201 of ~~Title 43 of the Oklahoma Statutes~~ this
5 title;

6 3. The order is not enforceable in the issuing country;

7 4. The order was obtained by fraud in connection with a matter
8 of procedure;

9 5. A record transmitted in accordance with Section 601-706 of
10 this title lacks authenticity or integrity;

11 6. A proceeding between the same parties and having the same
12 purpose is pending before a tribunal of this state and that
13 proceeding was the first to be filed;

14 7. The order is incompatible with a more recent support order
15 involving the same parties and having the same purpose if the more
16 recent support order is entitled to recognition and enforcement
17 under ~~this act~~ the Uniform Interstate Family Support Act in this
18 state;

19 8. Payment, to the extent alleged arrears have been paid in
20 whole or in part;

21 9. In a case in which the respondent neither appeared nor was
22 represented in the proceeding in the issuing foreign country:

23 a. if the law of that country provides for prior notice
24 of proceedings, the respondent did not have proper

1 notice of the proceedings and an opportunity to be
2 heard, or

3 b. if the law of that country does not provide for prior
4 notice of the proceedings, the respondent did not have
5 proper notice of the order and an opportunity to be
6 heard in a challenge or appeal on fact or law before a
7 tribunal, or

8 10. The order was made in violation of Section 601-711 of ~~Title~~
9 ~~43 of the Oklahoma Statutes~~ this title.

10 C. If a tribunal of this state does not recognize a convention
11 support order under paragraphs 2, 4 or 9 of subsection B of this
12 section:

13 1. The tribunal may not dismiss the proceeding without allowing
14 a reasonable time for a party to request the establishment of a new
15 convention support order; and

16 2. The ~~appropriate governmental entity~~ Oklahoma Department of
17 Human Services shall take all appropriate measures to request a
18 child support order for the obligee if the application for
19 recognition and enforcement was received under Section 601-704 of
20 ~~Title 43 of the Oklahoma Statutes~~ this title.

21 SECTION 13. This act shall become effective November 1, 2016.

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