



# SENATE BILL 488: Amend Uniform Interstate Family Support Act

2015-2016 General Assembly

Committee:

Introduced by:

Analysis of: S.L. 2015-117

Date:

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**SUMMARY:** *S.L. 2015-117 amends the Uniform Interstate Family Support Act (UIFSA) and makes changes to the administration of child support services in order to improve the effectiveness and efficiency of the collection and payment of child support to families.*

*This act became effective on June 24, 2015.*

**BACKGROUND:** The 2008 UIFSA Amendments modify the current version of UIFSA's international provisions to comport with the obligations of the United States under the 2007 Hague Convention on Maintenance. Federal legislation enacted in 2014 requires all states to enact the 2008 UIFSA Amendments as a condition of continuing to receive federal funds for state child support programs. Failure to enact these amendments during the 2015 legislative session could result in a state's loss of federal funding. DHHS received \$96.5 million in federal match dollars for the SFY 2012-13 for the Child Support Services Office. Further information for state legislators can be found at the Uniform Law Commission's website at:

[http://www.uniformlaws.org/Act.aspx?title=Interstate%20Family%20Support%20Act%20Amendments%20\(2008\)](http://www.uniformlaws.org/Act.aspx?title=Interstate%20Family%20Support%20Act%20Amendments%20(2008)).

## **BILL ANALYSIS:**

**Section 1** of S.L. 2015-117 amends Chapter 52C of the General Statutes as described below. The bill makes numerous organizational and technical changes; makes changes throughout by adding reference to orders from foreign countries; and makes clarifying and substantive changes as specifically noted.

### **ARTICLE 1 – GENERAL PROVISIONS.**

#### **G.S. 52C-1-101 – Definitions.**

- Provides that the defined terms apply throughout all of G.S. Chapter 52C.
- Adds or changes various definitions, amends a number of terms, and makes clarifying and technical changes to the definitions.

#### **G.S. 52C-1-102 – State tribunal and support enforcement agency.**

- Clarifies that the General Court of Justice, District Court Division, is the tribunal of the state and provides that DHHS and the county child support agencies are the state's support enforcement agencies.

#### **G.S. 52C-1-103 – Remedies cumulative.**

*Provides that the remedies provided under the Chapter do not affect the recognition of a foreign support order on the basis of comity. Adds that the Chapter does not (1) provide the exclusive method of establishing or enforcing a support order under the law of this state or (2) grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under the Chapter.*



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## **G.S. 52C-1-104 - Application of Chapter to resident of foreign country and foreign support proceeding.**

- Requires a tribunal of the state to apply Articles 1 through 6, and as applicable, Article 7 to support proceedings involving a foreign support order, a foreign tribunal, or an obligee, obligor, or child residing in a foreign country.

## **ARTICLE 2 – JURISDICTION.**

### **G.S. 52C-2-201 – Bases for jurisdiction over nonresident.**

- Changes current law to allow a tribunal of the state to exercise personal jurisdiction over a nonresident in a proceeding to establish or enforce (*but not modify*) a support order or to determine parentage if any of the seven (*was, eight*) listed conditions are met.
- Provides that the listed conditions no longer require the individual to have asserted paternity in an affidavit with the superior court.
- Adds that the bases of personal jurisdiction may not be used to acquire personal jurisdiction for a tribunal of the state to modify a child support order of another state unless specified requirements are met.

### **G.S. 52C-2-202 – Duration of personal jurisdiction.**

- Rewrites the statute to provide that personal jurisdiction acquired by a tribunal of this state in a proceeding under this Chapter or other law of this State relating to a support order continues as long as a tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order.

### **G.S. 52C-2-203 – Initiating and responding tribunal of state.**

- Makes clarifying and conforming changes (*adds "foreign country"*).

### **G.S. 52C-2-204 – Simultaneous proceedings.**

- Adds foreign countries as they relate to these provision.

### **G.S. 52C-2-205 – Continuing, exclusive jurisdiction to modify child support order.**

- Specifies the circumstances under which a tribunal of this state that has issued a child support order *must*, and *may not* exercise continuing, exclusive jurisdiction to modify its child support order. [G.S. 52C-2-205(a) and (b).]
- Provides that if a tribunal of another state has issued a child support order under UIFSA or similar law that modifies a child support order of a tribunal of this state, this state's tribunals must recognize the continuing, exclusive jurisdiction of the other state's tribunal.
- Adds a provision that a tribunal of this state that does not have continuing, exclusive jurisdiction to modify an order may initiate a request of another state's tribunal to modify a support order issued in that state.

### **G.S. 52C-2-206 – Continuing jurisdiction to enforce child support order.**

- Specifies the circumstances under which a tribunal of this state that has issued a child support order may serve as an initiating tribunal to request a tribunal of another state to enforce the order.

### **G.S. 52C-2-207 – Determination of controlling child support order.**

- Sets out the requirements and procedures for determining which tribunal's child support order controls when two or more tribunals have issued child support orders, and specifies the information that must be included in the order that determines the controlling order.

### **G.S. 52C-2-208 – Child support orders for two or more obligees.**

- Makes conforming changes.

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## **G.S. 52C-2-209 - Credit for payments.**

- Directs a tribunal of the State to credit amounts collected for a particular period under a child support order against the amounts owed for the same period under any other child support order for support of the same child.

## **G.S. 52C-2-210 – Application of this Chapter to nonresident subject to personal jurisdiction.**

- Creates a provision defining the powers of a tribunal of this state in exercising personal jurisdiction over a nonresident.

## **G.S. 52C-2-211 – Continuing, exclusive jurisdiction to modify spousal support order.**

- Creates a new provision concerning the circumstances under which a tribunal of this state has jurisdiction to modify a spousal support order.

## **ARTICLE 3 – CIVIL PROVISIONS OF GENERAL APPLICATION.**

### **G.S. 52C-3-301 – Proceedings under this Chapter.**

- Makes clarifying changes and adds "foreign country."

### **G.S. 52C-3-302 – Proceeding by minor parent.**

- Changes section title.

### **G.S. 52C-3-303 – Application of law of this state.**

- Makes technical changes.

### **G.S. 52C-3-304 – Duties of initiating tribunal.**

- No longer requires an initiating tribunal to provide three copies of the petition. Describes the duties of an initiating tribunal.

### **G.S. 52C-3-305 – Duties and powers of responding tribunal.**

- Allows the responding tribunal of this state to determine the controlling child support order and to order an obligor to keep the tribunal informed of the obligor's current email address. Requires a responding tribunal that is requested to enforce a support order, arrears, or judgment to modify a support order stated in a foreign currency, to convert the amount to dollars.

### **G.S. 52C-3-306 – Inappropriate tribunal.**

- Makes technical changes.

### **G.S. 52C-3-307 – Duties of support agency.**

- Requires a support enforcement agency, upon request, to provide services to a petitioner who resides in this state or who requests services through a central authority of a foreign country, and permits a support enforcement agency to provide services to a petitioner who does not live in the state.
- Requires a support enforcement agency that requests registration of a child support order in this state for enforcement or for modification to make reasonable efforts to make specified determinations.
- Requires a support enforcement agency that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency to convert the amounts to dollars.
- Requires a support enforcement agency of this state to request a tribunal of this state to issue a child support order and an income-withholding order that redirect payment of current support, arrears, and interest if requested by a support enforcement agency of another state.

### **G.S. 52C-3-308 – Duty of Department.**

- Removes current provisions concerning the district attorney's duty.
- Allows the Department either to order the support enforcement agency to perform its duties or to provide those services directly when the Department determines that the agency is neglecting or refusing to provide services.

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- Authorizes the Department to determine that a foreign country has established a reciprocal arrangement for child support with this state and to take appropriate action for notification of the determination.

## **G.S. 52C-3-308.1 – Private counsel.**

- Adds a provision authorizing an individual to hire private counsel for representation in proceedings under this Chapter.

## **G.S. 52C-3-309 Duties of state information agency.**

- Clarifies the Department's duties as the State information agency under the Chapter.

## **G.S. 52C-3-310 –Pleadings and accompanying documents.**

- Makes clarifying changes and references orders from another state or foreign country.

## **G.S. 52C-3-311 – Nondisclosure of information in exceptional circumstances.**

- Modifies the procedure for protecting identifying information of a child or a party, and permits the tribunal to order disclosure of information, following a hearing and a consideration of the party's or child's health, safety, or liberty, if the tribunal determines disclosure to be in the best interest of justice.

## **G.S. 52C-3-312 – Costs and fees.**

- Adds reference to foreign country.

## **G.S. 52C-3-313 – Limited immunity of petitioner.**

- Makes clarifying changes.

## **G.S. 52C-3-314 – Nonparentage as defense.**

- (No changes.)

## **G.S. 52C-3-315 – Special rules of evidence and procedure.**

- Requires a tribunal of the State to permit a party or witness residing outside of the State to be deposed or testify by phone, audiovisual means, or other electronic means and provides that a voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage.

## **G.S. 52C-3-316 – Communications between tribunals.**

- Authorizes communication between tribunals by email.

## **G.S. 52C-3-317 – Assistance with discovery.**

- Makes technical changes.

## **G.S. 52C-3-318 – Receipt and disbursement of payments.**

- Specifies duties of the support enforcement agency or tribunal of this state when neither the obligor, the obligee, nor the child reside in the State.
- Requires the support enforcement agency of this state receiving redirected payments from another state to give a requesting party or tribunal of the other state a certified statement by the custodian of the record of the amount and dates of all payments received.

## **ARTICLE 4 – ESTABLISHMENT OF SUPPORT ORDER or DETERMINATION OF PARENTAGE.**

### **G.S. 52C-4-401 – Establishment of support order.**

- Modifies the circumstances under which a tribunal may issue a temporary child support order.

### **G.S. 52C-4-402 – Proceeding to determine parentage.**

- Provides that a tribunal of this state that is authorized to determine parentage of a child to serve as a responding tribunal in a proceeding to determine parentage of a child.

## **ARTICLE 5 – ENFORCEMENT of ORDER of ANOTHER STATE WITHOUT REGISTRATION.**

### **G.S. 52C-5-501 – Employer's receipt of income-withholding order of another state.**

- Permits an income withholding order issued in another state to be sent by or on behalf of the obligee, or by the support enforcement agency, to the obligor's employer or payor without first

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filing a petition or registering the order with a tribunal. Removes the provisions concerning obligors who are receiving unemployment benefits.

**G.S. 52C-5-502 – Employer's receipt of income-withholding order of another state.**

- Makes clarifying and technical changes.

**G.S. 52C-5-503 – Employer's compliance with two or more income-withholding orders.**

- Makes clarifying changes.

**G.S. 52C-5-504 – Immunity from civil liability.**

- Makes a technical change.

**G.S. 52C-5-505 – Penalties for noncompliance.**

- Makes only technical and clarifying changes.

**G.S. 52C-5-506 – Contest by obligor.**

- Specifies the manner in which an obligor may contest the validity or enforcement of an income-withholding order issued in another state that is received directly by an employer in this state.

**G.S. 52C-5-507 – Administrative enforcement of orders.**

- Allows a support enforcement agency as well as a party seeking to enforce an order from another state or country to send the documents needed for registration of the order.

**ARTICLE 6 – REGISTRATION, ENFORCEMENT, and MODIFICATION of SUPPORT ORDER.**

**G.S. 52C-6-601 – Registration of order for enforcement.**

- Adds a reference to foreign support order.

**G.S. 52C-6-602 – Procedure to register order for enforcement.**

- Prescribes actions that must be taken by a person requesting registration of an order of enforcement if two or more orders are in effect.
- Allows a request for a determination of which order is controlling to be filed separately, or with a request for registration and enforcement or for registration and modification.

**G.S. 52C-6-603 – Effect of registration for enforcement.**

- Adds a reference to foreign support order.

**G.S. 52C-6-604 – Choice of law.**

- Specifies that the law of the issuing state or county governs the existence and satisfaction of other obligations under the support order.
- Requires a responding tribunal of this state to apply this state's procedures and remedies to enforce current support and collect arrears and interest due on a support order of another state or a foreign country registered in this state.
- Adds that after a tribunal of this state or another state determines which is the controlling order and issues an order consolidating arrears, a tribunal of this state must prospectively apply the law of the state or foreign country issuing the controlling order on current and future support and on consolidated arrears.

**G.S. 52C-6-605 – Notice of registration of order.**

- Sets out notice requirements for the registration of an order when the registering party asserts that two or more orders are in effect.

**G.S. 52C-6-606 – Procedure to contest validity or enforcement of registered support order.**

- Makes clarifying and conforming changes.

**G.S. 52C-6-607 – Contest of registration or enforcement.**

- Allows a party contesting the validity of enforcement of a support order to assert a defense that that the alleged controlling order is not the controlling order.

**G.S. 52C-6-608 – Confirmed order.**

- Makes a clarifying change.

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## **G.S. 52C-6-609 – Procedure to register child support order of another state for modification.**

- Makes a clarifying change.

## **G.S. 52C-6-610 – Effect of registration for modification.**

- Makes clarifying changes.

## **G.S. 52C-6-611 – Modification of child support order of another state.**

- Provides that in a proceeding to modify a child support order, the law of the state that issued the initial controlling order governs the duration of the obligation of support, and the obligor's fulfillment of the duty of support precludes imposition of a further obligation of a support by a tribunal of this state.
- Provides that a tribunal of this state retains jurisdiction to modify an order issued by this state if one party resides in another state and the other party resides outside the United States.

## **G.S. 52C-6-612 – Recognition of order modified in another state.**

- Provides that if a child support order issued by a tribunal of this state is modified by another state which assumed jurisdiction under UIFSA, the tribunal may perform specified acts and must recognize the modifying order of the other state upon registration.

## **G.S. 52C-6-613 – Jurisdiction to modify child support order of another state when individual parties reside in this state.**

- Makes technical changes.

## **❖ ADDS A NEW PART FOUR TO ARTICLE 6 – "Registration and Modification of Foreign Child Support Order."**

## **G.S. 52C-6-615 – Jurisdiction to modify child support order of foreign country.**

- Enacts a new statute relating to the jurisdiction to modify child support orders.

## **G.S. 52C-6-616 – Procedure to register child support order of foreign country for modification.**

- Creates the procedure for registering a child support order of a foreign country in order to modify and enforce the order.

## **ARTICLE 7– SUPPORT PROCEEDING UNDER CONVENTION** (was, "Determination of Parentage").

### **G.S. 52C-7-701 – Definitions.**

- Repeals current G.S. 52C-7-701, "Proceeding to determine parentage," and replaces it with the definition of terms used in the Article.

### **G.S. 52C-7-702 – Applicability.**

- Specifies that the Article applies only to a support proceeding under the Convention, and if a provision in a previous Article of the Chapter is inconsistent, Article 7 controls.

### **G.S. 52C-7-703 – Relationship of Department of United States central authority.**

- Identifies DHHS as the agency designated to perform specific functions under the Convention.

### **G.S. 52C-7-704 – Initiation by Department of support proceeding under Convention.**

- Sets out DHHS' duties with respect to initiating a support proceeding.
- Specifies the support proceedings available to an obligee and obligor under the Convention.
- Prohibits a tribunal of this state from requiring security, bond, or deposit to guarantee the payment of costs and expenses in proceedings under the Convention.

### **G.S. 52C-7-705 – Direct Request.**

- Enacts provisions governing a petitioner's direct request seeking establishment or modification of a support order or determination of parentage, and specifies the applicable laws of this state.

### **G.S. 52C-7-706 – Registration of Convention support order.**

- Requires a party seeking recognition of a Convention support order to register the order in this state and lists the necessary supporting documents.

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- Specifies the findings a tribunal of this state must make in order to vacate the registration of a Convention support order, and prescribes the subsequent notification requirements.

## **G.S. 52C-7-707 – Contest of Convention support order.**

- Establishes the procedure for contesting a registered Convention support order.

## **G.S. 52C-7-708 – Recognition and enforcement of registered Convention support order.**

- Requires a tribunal of this state to recognize and enforce a registered Convention support order, unless the listed grounds for refusal of recognition and enforcement exist.
- Sets out what must occur if a tribunal of this state does not recognize a Convention support order under specified circumstances.

## **G.S. 52C-7-709 – Partial enforcement.**

- Provides that if a tribunal of this state does not recognize and enforce a Convention support order in its entirety, it shall enforce any severable part of the order, and allows an application or direct request to seek recognition and partial enforcement of the order.

## **G.S. 52C-7-710 – Foreign support agreement.**

- Sets out the circumstances under which a tribunal of this state must recognize and enforce a foreign support agreement registered in this state.
- Lists what must be included with an application or direct request for enforcement of such an agreement.
- Governs when a tribunal of this state may vacate the registration of a foreign support agreement.
- Lists the findings a tribunal of this state must make in order to refuse recognition and enforcement of the agreement.

## **G.S. 52C-7-711 – Modification of Convention child support order.**

- Prohibits a tribunal of this state from modifying a Convention support order if the obligee remains a resident of the foreign country where the order was issued unless certain circumstances exist.

## **G.S. 52C-7-712 – Personal information; limit on use.**

- Provides that the use of personal information is limited to the purpose for which it was gathered or transmitted.

## **G.S. 52C-7-713 – Record in original language; English translation.**

- Provides that a record filed with a tribunal of this state must be in the original language and, if applicable, with an accompanying English translation.

## **ARTICLE 8– INTERSTATE RENDITION.**

### **G.S. 52C-8-801 – Grounds for rendition.**

- Makes technical changes.

### **G.S. 52C-8-802 – Conditions of rendition.**

- Makes clarifying and conforming changes.

## **ARTICLE 9– MISCELLANEOUS PROVISIONS.**

### **G.S. 52C-9-901 – Uniformity of application and construction.**

- Provides that in applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law among states enacting it.

### **G.S. 52C-9-901.1 – Transitional provision.**

- Enacts a new statute to provide that the Chapter applies to proceedings begun on or after the effective date of this Chapter to establish a support order or determine parentage of a child or to register, recognize, enforce, or modify a prior support order, determination, or agreement, whenever issued or entered.

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**Section 2** of the act directs the Revisor of Statutes to update the Official Comments to UIFSA.

**Section 3** amends 110-130.1 to provide that any fee imposed by the Department of Revenue or the Secretary of the Treasury to cover the costs of withholding for non-Work First arrearages for administrative offsets, as defined in federal regulation, are to be borne by the client, and that any such administrative offsets later determined to have been incorrectly withheld and distributed to a client will constitute a debt to the State owed by the client. The definition of "administrative offset" can be found at: <http://www.gpo.gov/fdsys/pkg/CFR-2013-title31-vol2/pdf/CFR-2013-title31-vol2-sec285-1.pdf>.

**Section 4** of the act adds provisions to G.S. 110-136.4, *"Implementation of withholding in IV-D cases,"* permitting required notices of obligation to withhold to be served by means of an electronic transmission that complies with specified federal procedures.

**Section 5.** Under current G.S. 110-139.2, a notice to the obligor of levy on an account with a financial institution must include a copy of the applicable law (G.S. 110-139.2). The act requires that the notice include only a reference to the applicable law.

**EFFECTIVE DATE:** This act became effective when the Governor signed it into law on June 24, 2015.