

BILL ANALYSIS

Senate Research Center

H.B. 3538
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Administration
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

On September 29, 2014, the President of the United States signed the Preventing Sex Trafficking and Strengthening Families Act, Public Law 113-183, requiring the verbatim adoption by states of the Uniform Interstate Family Support Act (UIFSA) 2008. All states are required to submit a state plan amendment certifying to the Secretary of the United States Department of Health and Human Services that the state has enacted UIFSA 2008 verbatim. This requires Texas to pass UIFSA 2008 in the 2015 legislative session to avoid the potential loss of federal funding. Disapproval of the state plan could result in immediate suspension of all federal payments for the state's child support enforcement program. For federal fiscal year (FFY) 2012, the federal share of expenditures for the child support program, including incentive payments, was \$227,965,921. Also, without an approved state plan, Texas would be at risk of losing the Temporary Assistance for Needy Families (TANF) block grant. For FFY 2012, the TANF block grant was \$486,256,752. In total, failure to pass H.B. 3538 could cost the state over \$700 million each year.

UIFSA 2008 is essentially a reauthorization of the existing law under which Texas is currently operating. However, in an ever-shrinking world, with people spending significant amounts of time outside their home countries, child support collections have become increasingly complicated. Texas currently manages over 1,500 child support orders that cross international boundaries, and that number will continue to increase. Consequently, the predominate changes in this bill are to further define that UIFSA 2008 applies to foreign countries by adding "foreign countries" throughout the existing statute, and to explain how a court of this state should deal with a child support order of a different state or a foreign country. UIFSA 2008 will simplify and standardize child support collections across international boundaries and ensure protections for Texans who find themselves in child support agreements with foreign nationals.

To safeguard American citizens, UIFSA 2008 offers protection against any limitation of comity or the application of the Full Faith and Credit clause to orders rendered by other tribunals or foreign countries. H.B. 3538 specifically allows for a Texas court to vacate a registration or refuse recognition and enforcement of an international Hague Convention support order if it would be "manifestly incompatible with public policy."

H.B. 3538 is effective July 1, 2015, if the bill receives a vote of two-thirds of all the members elected to each house.

H.B. 3538 amends current law relating to the adoption of the Uniform Interstate Family Support Act of 2008.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 159.102, Family Code, as follows:

Sec. 159.102. DEFINITIONS. Defines "convention," "foreign country," "foreign support order," "foreign tribunal," "issuing foreign country," and "outside this state." Redefines

"child support order," "home state," "initiating tribunal," "issuing state," "issuing tribunal," "obligee," "obligor," "person," "record," "register," "registering tribunal," "responding state," "responding tribunal," "state," "support enforcement agency," "support order," and "tribunal." Makes nonsubstantive changes.

SECTION 2. Amends Section 159.103, Family Code, as follows:

Sec. 159.103. New heading: STATE TRIBUNAL AND SUPPORT ENFORCEMENT AGENCY. (a) Creates this subsection from existing text. Provides that the court is the tribunal of this state.

(b) Provides that the Office of the Attorney General of the State of Texas (OAG) is the support enforcement agency of this state.

SECTION 3. Amends Sections 159.104(a) and (b), Family Code, as follows:

(a) Provides that remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law or the recognition of a foreign support order on the basis of comity, rather than provides that remedies provided in this chapter are cumulative and do not affect the availability of remedies under other law, including the recognition of a support order of a foreign country or political subdivision on the basis of comity.

(b) Makes a nonsubstantive change.

SECTION 4. Amends Subchapter B, Chapter 159, Family Code, by adding Section 159.105, as follows:

Sec. 159.105. APPLICATION OF CHAPTER TO RESIDENT OF FOREIGN COUNTRY AND FOREIGN SUPPORT PROCEEDING. (a) Requires a tribunal of this state to apply Subchapters B through G and, as applicable, Subchapter H to a support proceeding involving a foreign support order, a foreign tribunal, an obligee, obligor, or child residing in a foreign country.

(b) Authorizes a tribunal of this state that is requested to recognize and enforce a support order on the basis of comity to apply the procedural and substantive provisions of Subchapters B through G.

(c) Provides that Subchapter H applies only to a support proceeding under the Convention on the International Recovery of Child Support and other Forms of Family Maintenance (Convention). Provides that, in such a proceeding, if a provision of Subchapter H is inconsistent with Subchapters B through G, Subchapter H controls.

SECTION 5. Amends Section 159.201, Family Code, as amended by S.B. 219, Acts of the 84th Legislature, Regular Session, 2015, as follows:

Sec. 159.201. BASES FOR JURISDICTION OVER NONRESIDENT. (a) Authorizes a tribunal of this state, in a proceeding to establish or enforce a support order or to determine parentage of a child, to exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

(1) Makes no change to this subdivision;

(2) the individual submits to the jurisdiction of this state by consent in a record, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;

(3)-(6) Makes no changes to these subdivisions;

(7) the individual asserted parentage of a child in the paternity registry maintained in this state by the vital statistics unit; or

(8) Makes no change to this subdivision.

(b) Prohibits the bases of personal jurisdiction listed in Subsection (a) or in any other law of this state from being used to acquire personal jurisdiction for a tribunal of this state to modify a child support order of another state unless the requirements of Section 159.611 are met, or, in the case of a foreign support order, unless the requirements of Section 159.615 are met, rather than prohibits a tribunal of this state from using the bases of personal jurisdiction listed in Subsection (a) or in any other law of this state to acquire personal jurisdiction to modify a child support order of another state unless the requirements of Section 159.611 or 159.615 are satisfied.

SECTION 6. Amends Section 159.202, Family Code, as follows:

Sec. 159.202. DURATION OF PERSONAL JURISDICTION. Provides 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 the tribunal of this state has continuing, exclusive jurisdiction to modify its order or continuing jurisdiction to enforce its order as provided by Sections 159.205, 159.206, and 159.211. Makes a nonsubstantive change.

SECTION 7. Amends Section 159.203, Family Code, as follows:

Sec. 159.203. INITIATING AND RESPONDING TRIBUNAL OF STATE. Authorizes a tribunal of this state, under this chapter, to serve as an initiating tribunal to forward proceedings to a tribunal of another state and as a responding tribunal for proceedings initiated in another state or a foreign country.

SECTION 8. Amends Section 159.204, Family Code, as follows:

Sec. 159.204. SIMULTANEOUS PROCEEDINGS. (a) Authorizes a tribunal of this state to exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state or a foreign country only if certain criteria is met as set forth.

(b) Prohibits a tribunal of this state from exercising 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 or a foreign country if certain criteria is met as set forth.

SECTION 9. Amends Sections 159.205(a), (b), (c), and (d), Family Code, as follows:

(a) Provides that a tribunal of this state that has issued a child support order consistent with the law of this state has and is required to exercise continuing, exclusive jurisdiction to modify its child support order if the order is the controlling order and:

(1) at the time of the filing of a request for modification this state is the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or

(2) even if this state is not the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued, the parties consent in a record or in open court that the tribunal of this state may continue to exercise jurisdiction to modify its order. Makes nonsubstantive changes.

(b) Prohibits a tribunal of this state that has issued a child support order consistent with the law of this state from exercising continuing, exclusive jurisdiction to modify the order

if all of the parties who are individuals file consent, rather than each party who is an individual files a consent, in a record with the tribunal of this state that a tribunal of another state that has jurisdiction over at least one of the parties who is an individual or that is located in the state of residence of the child may modify the order and assume continuing, exclusive jurisdiction, or the tribunal's order is not the controlling order.

(c) Requires tribunals of this state to recognize the continuing, exclusive jurisdiction of the tribunal of the other state, if a tribunal of another state has issued a child support order pursuant to the Uniform Interstate Family Support Act or a law substantially similar to that Act that modifies a child support order of a tribunal of this state.

Deletes existing text requiring a tribunal of this state to recognize the continuing, exclusive jurisdiction of a tribunal of another state if the tribunal of the other state has issued a child support order that modifies a child support order of a tribunal of this state under a law substantially similar to this chapter.

(d) Authorizes a tribunal of this state that lacks, rather than does not have, continuing, exclusive jurisdiction to modify a child support order to serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.

SECTION 10. Amends Section 159.206(a), Family Code, as follows:

(a) Authorizes a tribunal of this state that has issued a child support order consistent with the law of this state to serve as an initiating tribunal to request a tribunal of another state to enforce:

(1) Makes no change to this subdivision;

(2) a money judgment for arrears of support, rather than for support arrearages, and interest on the order accrued before a determination that an order of a tribunal of another state is the controlling order.

SECTION 11. Amends Section 159.207, Family Code, as follows:

Sec. 159.207. DETERMINATION OF CONTROLLING CHILD SUPPORT ORDER.

(a) Makes a nonsubstantive change.

(b) Requires a tribunal of this state, if a proceeding is brought under this chapter and two or more child support orders have been issued by tribunals of this state, another state, or a foreign country with regard to the same obligor and same child, having personal jurisdiction over both the obligor and individual obligee to apply the following rules and by order to determine which order controls and must be recognized:

(1)-(3) Makes nonsubstantive changes.

(c) Requires a tribunal of this state having personal jurisdiction over both the obligor and the obligee who is an individual to determine which order controls under Subsection (b) if two or more child support orders have been issued for the same obligor and same child, on request of a party who is an individual or that is a support enforcement agency. Authorizes the request to be filed with a registration for enforcement or registration for modification under Subchapter G or to be filed as a separate proceeding.

(d) and (e) Makes nonsubstantive changes.

(f) Requires a tribunal of this state that determines by order which is the controlling order under Subsection (b)(1) or (2) or Subsection (c), or that issues a new controlling order under Subsection (b)(3), to state in that order:

(1) Makes no change to this subdivision;

(2) the amount of prospective support, rather than child support, if any; and

(3) the total amount of consolidated arrears, rather than arrearages, and accrued interest, if any, under all of the orders after all payments made are credited as provided by Section 159.209. Makes nonsubstantive changes.

(g) Makes nonsubstantive changes.

(h) Requires than an order that has been determined to be the controlling order, or a judgment for consolidated arrears of support, rather than support arrearages, and interest, if any, made under this section, be recognized in proceedings under this chapter. Makes nonsubstantive changes.

SECTION 12. Amends Section 159.208, Family Code, as follows:

Sec. 159.208. CHILD SUPPORT ORDERS FOR TWO OR MORE OBLIGEES. Requires a tribunal of this state, in responding to registrations or petitions for enforcement of two 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 or a foreign country, to enforce those orders in the same manner as if the orders had been issued by a tribunal of this state.

SECTION 13. Amends Section 159.209, Family Code, as follows:

Sec. 159.209. CREDIT FOR PAYMENTS. Requires a tribunal of this state to credit amounts collected for a particular period under any child support order against the amounts owed for the same period under any other child support order for support of the same child issued by a tribunal of this state, another state, or a foreign country. Makes nonsubstantive changes.

SECTION 14. Amends Section 159.210, Family Code, as follows:

Sec. 159.210. New heading: APPLICATION OF CHAPTER TO NONRESIDENT SUBJECT TO PERSONAL JURISDICTION. Authorizes a tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this chapter or under other law of this state relating to a support order or recognizing a foreign support order to receive evidence from outside this state as provided by Section 159.316, communicate with a tribunal outside this state as provided by Section 159.317, and obtain discovery through a tribunal outside this state as provided by Section 159.318. Provides that in all other respects, Subchapters D, E, F, and G do not apply and requires the tribunal to apply the procedural and substantive law of this state.

Deletes existing text providing that, except as provided by Subsection (b), Subchapters D-H do not apply to a tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this chapter or under other law of this state relating to a support order or recognizing a support order of a foreign country or political subdivision on the basis of comity. Deletes existing text requiring the tribunal to apply the procedural and substantive law of this state in a proceeding described by this subsection.

Deletes existing text authorizing a tribunal of this state, notwithstanding Subsection (a), exercising personal jurisdiction over a nonresident in a proceeding under this chapter or under other law of this state relating to a support order or recognizing a support order of a foreign country or political subdivision on the basis of comity to receive evidence from another state as provided by Section 159.316, communicate with a tribunal of another state as provided by Section 159.317, and obtain discovery through a tribunal of another state as provided by Section 159.318. Makes nonsubstantive changes.

SECTION 15. Amends Section 159.211(b), Family Code, to prohibit a tribunal of this state from modifying a spousal support order issued by a tribunal of another state or a foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.

SECTION 16. Amends Section 159.301(c), Family Code, to authorize an individual petitioner or a support enforcement agency to initiate 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 or foreign country that has or can obtain personal jurisdiction over the respondent.

SECTION 17. Amends Section 159.304(b), Family Code, as follows:

(b) Requires a tribunal of this state, if requested by the responding tribunal, to issue a certificate or other document and make findings required by the law of the responding state. Requires the tribunal of this state, if the responding tribunal is in a foreign country, on request to specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under the applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding foreign tribunal, rather than requires the tribunal, if the responding state is a foreign a foreign country or political subdivision, to specify the amount of support sought, convert that amount into the equivalent amount in the foreign currency under the applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding state.

SECTION 18. Amends Sections 159.305(b) and (f), Family Code, as follows:

(b) Authorizes a responding tribunal of this state, rather than a responding tribunal of this state except as prohibited by other law, to the extent not prohibited by other law, to do one or more of the following:

(1) establish, rather than issue, or enforce a support order, modify a child support order, determine the controlling child support order, or determine parentage of a child;

(2) Makes a nonsubstantive change;

(3)-(7) Makes no change to these subdivisions;

(8) order an obligor to keep the tribunal informed of the obligor's current residential address, electronic mail address, telephone number, employer, address of employment, and telephone number at the place of employment;

(9)-(12) Makes no change to these subdivisions.

(f) Changes a reference to arrearages to arrears, and makes nonsubstantive changes.

SECTION 19. Amends Sections 159.307(b), (c), (d), and (e), Family Code, as follows:

(b) Requires a support enforcement agency of this state that is providing, rather than provides, services to the petitioner to:

(1) take all steps necessary to enable an appropriate tribunal of this state, another state, or a foreign country to obtain jurisdiction over the respondent;

(2) and (3) Makes no change to these subdivisions;

(4) within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of notice, in a record from an initiating, responding, or registering tribunal,

send a copy of the notice to the petitioner, rather than not later than the second day excluding Saturdays, Sundays, and legal holidays, after the date of receipt of a written notice.

(5) Makes conforming changes;

(6) Makes no change to this subdivision.

(c) Requires a support enforcement agency of this state that requests registration of a child support order in this state for enforcement or for modification to make reasonable efforts:

(1) to ensure that the order to be registered is the controlling order; or

(2) if two or more child support orders exist and the identity of the controlling order has not been determined, to ensure that a request for such a determination is made in a tribunal having jurisdiction to do so. Makes nonsubstantive changes.

(d) Changes a reference to arrearages to arrears and makes nonsubstantive changes.

(e) Changes a reference to arrearages to arrears.

SECTION 20. Amends the heading of Section 159.308, Family Code, to read as follows:

Sec. 159.308. DUTY OF ATTORNEY GENERAL AND GOVERNOR.

SECTION 21. Amends Section 159.308(b), Family Code, to authorize the governor to determine that a foreign country, rather than a foreign country or political subdivision, has established a reciprocal arrangement for child support with this state and take appropriate action for notification of the determination.

SECTION 22. Amends Section 159.310(b), Family Code, as follows:

(b) Requires the state information agency to:

(1) Changes reference to send to transmit;

(2) Makes no change to this subdivision;

(3) forward to the appropriate tribunal in the county in this state in which the obligee who is an individual 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 another state or a foreign country, rather than from an initiating tribunal or the state information agency of the initiating state; and

(4) Makes no change to this subdivision.

Makes nonsubstantive changes.

SECTION 23. Amends Section 159.311(a), Family Code, to require a petitioner seeking to establish a support order, in a proceeding under this chapter, to determine parentage of a child, or to register and modify a support order of a tribunal of another state or foreign country to file a petition.

SECTION 24. Amends Section 159.312, Family Code, as follows:

Sec. 159.312. NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES. Requires that, if a party alleges in an affidavit or pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of specific identifying information, that information be sealed and is prohibited

from being disclosed to the other party or the public. Authorizes the tribunal, after a hearing in which the tribunal takes into consideration the health, safety, or liberty of the party or child, to order disclosure of information that the tribunal determines to be in the interest of justice. Makes nonsubstantive changes.

SECTION 25. Amends Sections 159.313(b) and (c), Family Code, as follows:

(b) Authorizes a responding tribunal of this state, if an obligee prevails, to assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. Prohibits the tribunal from assessing fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or responding state or foreign country, except as provided by other law. Makes nonsubstantive changes.

(c) Requires the tribunal to order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. Provides that, in a proceeding under Subchapter G, rather than pursuant to Sections 159.601 through 159.608, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

SECTION 26. Amends Section 159.314(c), Family Code, to provide that 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 physically present in this state to participate in the proceeding.

SECTION 27. Amends Sections 159.316(a), (b), (d), (e), and (f), Family Code, as follows:

(a) Provides that the physical presence of a nonresident party who is an individual in a 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 of a child.

(b) Provides that an affidavit, a document substantially complying with federally mandated forms, or a document incorporated by reference in an affidavit or document, that would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under penalty of perjury by a party or witness residing outside this state, rather than residing in another state.

(d) Provides that copies of bills for testing for parentage of a child, and for prenatal and postnatal health care of the mother and child furnished to the adverse party at least 10 days before trial are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary. Makes nonsubstantive changes.

(e) Makes nonsubstantive changes.

(f) Requires a tribunal of this state, in a proceeding under this chapter, to permit a party or witness residing outside this state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location. Requires a tribunal of this state to cooperate with other tribunals, rather than a tribunal of another state, in designating an appropriate location for the deposition or testimony. Makes nonsubstantive changes.

SECTION 28. Amends Section 159.317, Family Code, as follows:

Sec. 159.317. COMMUNICATIONS BETWEEN TRIBUNALS. Authorizes a tribunal of this state to communicate with a tribunal outside this state in a record or by telephone, electronic mail, or by other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding, rather than authorizes a tribunal of this state to communicate with a tribunal of another state or of a foreign country or political subdivision in a record, by telephone, or by other

means, to obtain information concerning the laws, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other state, foreign country, or political subdivision. Authorizes a tribunal of this state to furnish similar information by similar means to a tribunal outside this state, rather than to a tribunal of another state or of a foreign country or political subdivision.

SECTION 29. Amends Section 159.318, Family Code, to make nonsubstantive and conforming changes regarding a tribunal of this state requesting assistance with discovery from a tribunal outside this state.

SECTION 30. Amends Section 159.319(a), Family Code, to add a reference to a foreign country.

SECTION 31. Amends the heading to Subchapter E, Chapter 159, Family Code, to read as follows:

SUBCHAPTER E. ESTABLISHMENT OF SUPPORT ORDER OR DETERMINATION OF PARENTAGE

SECTION 32. Amends Section 159.401, Family Code, as follows:

Sec. 159.401. New heading: ESTABLISHMENT OF SUPPORT ORDER. (a) Authorizes a responding tribunal of this state with personal jurisdiction over the parties, if a support order entitled to recognition under this chapter has not been issued, to issue a support order if:

(1) the individual seeking the order resides outside this state, rather than in another state; or

(2) the support enforcement agency seeking the order is located outside this state, rather than in another state.

(b) Authorizes a tribunal to issue a temporary child support to order if the tribunal determines that such an order is appropriate and the individual ordered to pay fulfills certain criteria as set forth. Makes nonsubstantive changes.

(c) Makes no change to this subsection.

SECTION 33. Amends Subchapter E, Chapter 159, Family Code, by adding Section 159.402, as follows:

Sec. 159.402. PROCEEDING TO DETERMINE PARENTAGE. Authorizes a tribunal of this state authorized to determine parentage of a child to serve as a responding tribunal in a proceeding to determine parentage of a child brought under this chapter or a law or procedure substantially similar to this chapter.

SECTION 34. Amends the heading to Subchapter F, Chapter 159, Family Code, to read as follows:

SUBCHAPTER F. ENFORCEMENT OF SUPPORT ORDER WITHOUT REGISTRATION

SECTION 35. Amends Section 159.506, Family Code, as follows:

Sec. 159.506. CONTEST BY OBLIGOR. (a) Authorizes an obligor to contest the validity or enforcement of an income-withholding order issued in another state and received directly by an employer in this state by registering the order in a tribunal of this state and filing a contest to that order as provided in Subchapter G or otherwise contesting the order in the same manner as if the order had been issued by a tribunal of this state. Makes nonsubstantive changes.

(b) Requires the obligor to give notice of the contest to certain persons and entities. Makes nonsubstantive changes.

SECTION 36. Amends Section 159.507(a), Family Code, to authorize a party or support enforcement agency seeking to enforce a support order or an income-withholding order, or both, issued in another state, rather than issued by a tribunal of another state, or a foreign support order to send the documents required for registering the order to a support enforcement agency of this state.

SECTION 37. Designates Sections 159.601, 159.602, 159.603, and 159.604, Family Code, as Part 1, Subchapter G, Chapter 159, Family Code, and adds a heading to read as follows:

PART 1. REGISTRATION FOR ENFORCEMENT OF SUPPORT ORDER

SECTION 38. Amends Section 159.601, Family Code, as follows:

Sec. 159.601. REGISTRATION OF ORDER FOR ENFORCEMENT. Authorizes a support order or income-withholding order issued in another state, rather than by a tribunal of another state, or a foreign support order to be registered in this state for enforcement.

SECTION 39. Amends Sections 159.602(a), (b), and (d), Family Code, as follows:

(a) Authorizes a support order or income-withholding order of another state or a foreign support order to be registered in this state by sending the following records to the appropriate tribunal in this state except as otherwise provided by Section 159.706:

(1)-(4) Makes no change to these subdivisions;

(5) except as otherwise provided by Section 159.312, the name and address of the obligee and, if applicable, the person to whom support payments are to be remitted.

(b) Requires the registering tribunal, on receipt of a request for registration, to cause the order to be filed as an order of a tribunal of another state or a foreign support order, rather than foreign judgment, together with one copy of the documents and information, regardless of their form.

(d) Requires the person requesting registration, if two or more orders are in effect, to:

(1) furnish to the tribunal a copy of each support order asserted to be in effect in addition to the documents specified in this section, rather than provide to the to the tribunal a copy of each support order and the documents specified in this section;

(2) specify, rather than identify, the order alleged to be the controlling order, if any; and

(3) specify the amount of consolidated arrears, if any, rather than state the amount of consolidated arrearages, if any.

SECTION 40. Amends Section 159.603, Family Code, as follows:

Sec. 159.603. EFFECT OF REGISTRATION FOR ENFORCEMENT. (a) Provides that a support order or income-withholding order issued in another state or a foreign support order is registered when the order is filed in the registering tribunal of this state.

(b) Provides that a registered support order issued in another state or a foreign country is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this state.

(c) Requires a tribunal of this state, except as otherwise provided in this subchapter, to recognize and enforce, but prohibits it from modifying, a registered support order if the issuing tribunal had jurisdiction.

SECTION 41. Amends Section 159.604, Family Code, as follows:

Sec. 159.604. CHOICE OF LAW. (a) Provides that, except as otherwise provided by Subsection (d), the law of the issuing state or foreign country governs:

(1)-(3) Makes no change to these subdivisions.

(b) Makes conforming changes.

(c) Requires a responding tribunal of this state to apply the procedures and remedies of this state to enforce current support and collect arrears, rather than arrearages, and interest due on a support order of another state or a foreign country registered in this state.

(d) Requires the tribunal of this state or another state, after determining which is the controlling order and issues an order consolidating arrears, if any, to prospectively apply the law of the state or foreign country issuing the controlling order, including that state's or country's law on interest on arrears, on current and future support, and on consolidated arrears. Makes conforming and nonsubstantive changes.

SECTION 42. Designates Sections 159.605, 159.606, 159.607, and 159.608, Family Code, as Part 2, Subchapter G, Chapter 159, Family Code, and adds a heading to read as follows:

PART 2. CONTEST OF VALIDITY OR ENFORCEMENT

SECTION 43. Amends Section 159.605, Family Code, as follows:

Sec. 159.605. NOTICE OF REGISTRATION OF ORDER. (a) Requires the registering tribunal of this state, when a support order or income-withholding order issued in another state or a foreign support order is registered, to notify the nonregistering party. Requires that the notice be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.

(b) Requires that a notice inform the nonregistering party:

(1) Makes no change to this subdivision;

(2) that a hearing to contest the validity or enforcement of the registered order must be requested within 20 days after notice unless the registered order is under Section 159.707;

(3) 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

(4) Makes no change to this subdivision.

Deletes existing text requiring that a notice under this section inform the nonregistering party that failure to contest the validity or enforcement of the registered order in a timely manner precludes further contest of that order with respect to any matter that could have been asserted.

(c) Requires that, if the registering party asserts that two or more orders are in effect, the notice, rather than the notice under this section, also:

(1) identify the two or more orders and the order alleged by the registering party to be the controlling order and the consolidated arrears, if any;

(2) notify the nonregistering party of the right to a determination of which is the controlling order;

(3) state that the procedures provided in Subsection (b) apply to the determination of which is the controlling order; and

(4) Makes no change to this subdivision.

Makes conforming and nonsubstantive changes.

(d) Requires the support enforcement agency or the registering tribunal, on registration of an income-withholding order for enforcement, to notify the obligor's employer under Chapter 158 (Withholding From Earnings for Child Support).

SECTION 44. Amends Section 159.606, Family Code, as follows:

Sec. 159.606. New heading: PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF REGISTERED SUPPORT ORDER. (a) Requires a nonregistering party seeking to contest the validity or enforcement of a registered support order in this state to request a hearing within the time required by Section 159.605, rather than within 20 days after notice of the registration. Authorizes the nonregistering party to seek, rather than to seek under Section 159.607, 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 under Section 159.607. Makes nonsubstantive changes.

(b) and (c) Changes references to registered order to registered support order.

SECTION 45. Amends Section 159.607, Family Code, as follows:

Sec. 159.607. CONTEST OF REGISTRATION OR ENFORCEMENT. (a) Provides that a party contesting the validity or enforcement of a registered support order or seeking to vacate the registration has the burden of proving one or more of certain defenses as set forth.

(b) and (c) Changes references to registered order to registered support order and changes a reference to order to registered support order.

SECTION 46. Amends Section 159.608, Family Code, to make a conforming change regarding confirmation of a registered support order.

SECTION 47. Designates Sections 159.609, 159.610, 159.611, 159.612, 159.613, and 159.614, Family Code, as Part 3, Subchapter G, Chapter 159, Family Code, and adds a heading to read, as follows:

PART 3. REGISTRATION AND MODIFICATION OF CHILD SUPPORT ORDER OF ANOTHER STATE

SECTION 48. Amends Section 159.609, Family Code, as follows:

Sec. 159.609. PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF ANOTHER STATE FOR MODIFICATION. Requires a party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state to register that order in this state in the same manner provided in Sections

159.601 through 159.608, rather than 159.601-159.604, if the order has not been registered.

SECTION 49. Amends Section 159.610, Family Code, to change a reference to registered order to registered support order. Deletes a reference to Section 159.615 from references with certain requirements to modify a registered support order.

SECTION 50. Amends Section 159.611, Family Code, by amending Subsections (a), (c), (d), and (e) and adding Subsection (f), as follows:

(a) Authorizes a tribunal of this state on petition, if Section 159.613 does not apply, to modify a child support order issued in another state that is registered in this state if, after notice and hearing, the tribunal makes certain findings as set forth.

Deletes existing text providing that, except as provided by Section 159.615, on petition a tribunal of this state may modify a child support order issued in another state and registered in this state only if Section 159.613 does not apply and after notice and hearing the tribunal makes certain findings as set forth.

(c) Prohibits a tribunal of this state from modifying any aspect of a child support order that may not be modified under the law of the issuing state, including the duration of the obligation of support, rather than prohibits a tribunal of this state, except as provided by Section 159.615, from modifying any aspect of a child support order including the duration of the obligation of support, that may not be modified under the law of the issuing state.

(d) Provides that, in a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. Provides that the obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.

(e) Creates this subsection from existing text and makes no further change.

(f) Provides that, notwithstanding Subsections (a) through (e) of this section and Section 159.201(b), a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if one party resides in another state and the other party resides outside the United States.

Deletes existing text providing that in a proceeding to modify a child support order, the law of the state that is determined to have issued the initial controlling order governs the duration of the obligation of support. Deletes existing text providing the obligor's fulfillment of the duty of support established by that order precludes imposition of a further obligation of support by a tribunal of this state.

SECTION 51. Amends Section 159.612, Family Code, to change a reference to arrearages to arrears.

SECTION 52. Amends Section 159.613(b), Family Code, as follows:

(b) Requires a tribunal of this state exercising jurisdiction under this section to apply the provisions of Subchapters B and C, this subchapter and the procedural and substantive law of this state to the proceeding for enforcement or modification. Provides that Subchapters D, E, F, H, and I (Interstate Rendition) do not apply.

Deletes existing text requiring a tribunal of this state exercising jurisdiction under this section to apply the provisions of Sections 159.101 through 159.209 (relating to the definitions of certain relevant provisions and jurisdiction to enforce support orders) and 159.601 through 159.614 (relating to enforcement), and the procedural and substantive law of this state to the proceeding for enforcement or modification. Provides that Sections

159.301 through 159.507 (relating to civil proceedings and compliance with orders) and 159.701 through 159.802 (relating to parentage and rendition), do not apply

SECTION 53. Designates Section 159.615, Family Code, as Part 4, Subchapter G, Chapter 159, Family Code, and adds a heading to read as follows:

PART 4. REGISTRATION AND MODIFICATION OF FOREIGN CHILD SUPPORT ORDER

SECTION 54. Amends Section 159.615, Family Code, as follows:

Sec. 159.615. New heading: **JURISDICTION TO MODIFY CHILD SUPPORT ORDER OF FOREIGN COUNTRY.** (a) Authorizes a tribunal of this state, except as otherwise provided by Section 159.711, if a foreign country lacks or refuses to exercise jurisdiction to modify its child support order pursuant to its laws, to assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal regardless of whether the consent to modification of a child support order otherwise required of the individual under Section 159.611 has been given or whether the individual seeking modification is a resident of this state or of the foreign country.

Deletes existing text authorizing a tribunal of this state, if a foreign country or political subdivision that is a state refuses to modify its order or may not under its law from modifying its order, to assume jurisdiction to modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal regardless of whether consent to modification of a child support order has been given under Section 159.611, or the individual seeking modification is a resident of this state or of the foreign country or political subdivision.

(b) Provides that an order issued by a tribunal of this state modifying a foreign child support order under this section is the controlling order.

SECTION 55. Amends Part 4, Subchapter G, Chapter 159, Family Code, as designated by this Act, by adding Section 159.616, as follows:

Sec. 159.616. **PROCEDURE TO REGISTER CHILD SUPPORT ORDER OF FOREIGN COUNTRY FOR MODIFICATION.** Authorizes a party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child support order not under the Convention to register that order in this state under Sections 159.601 through 159.608 if the order has not been registered. Authorizes a petition for modification to be filed at the same time as a request for registration or at another time. Requires that the petition specify the grounds for modification.

SECTION 56. Amends the heading to Subchapter H, Chapter 159, to read as follows:

SUBCHAPTER H. SUPPORT PROCEEDING UNDER CONVENTION

SECTION 57. Amends Section 159.701, Family Code, to define, in this subchapter, "application," "central authority," "convention support order," "direct request," "foreign central authority," "foreign support agreement," and "United States central authority." Deletes existing text authorizing a court of this state authorized to determine the parentage of a child may serve as a responding tribunal in a proceeding to determine parentage brought under this chapter or a law substantially similar to this chapter.

SECTION 58. Amends Subchapter H, Chapter 159, Family Code, by adding Sections 159.702 through 159.713, as follows:

Sec. 159.702. **APPLICABILITY.** Provides that this subchapter applies only to a support proceeding under the Convention. Provides that, in such a proceeding, if a provision of this subchapter is inconsistent with Subchapters B through G, this subchapter controls.

Sec. 159.703. RELATIONSHIP OF OFFICE OF ATTORNEY GENERAL TO UNITED STATES CENTRAL AUTHORITY. Provides that OAG is recognized as the agency designated by the United States central authority to perform specific functions under the Convention.

Sec. 159.704. INITIATION BY OFFICE OF ATTORNEY GENERAL OF SUPPORT PROCEEDING UNDER CONVENTION. (a) Requires OAG, in a support proceeding under this subchapter, to transmit and receive applications and initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.

(b) Provides that the following support proceedings are available to an obligee under the Convention:

- (1) recognition or recognition and enforcement of a foreign support order;
- (2) enforcement of a support order issued or recognized in this state;
- (3) establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;
- (4) establishment of a support order if recognition of a foreign support order is refused under Section 159.708(b)(2), (4), or (9);
- (5) modification of a support order of a tribunal of this state; and
- (6) modification of a support order of a tribunal of another state or a foreign country.

(c) Provides that the following support proceedings are available under the Convention to an obligor against which there is an existing support order: recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state, modification of a support order of a tribunal of this state, and modification of a support order of a tribunal of another state or a foreign country.

(d) Prohibits a tribunal of this state from requiring security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the Convention.

Sec. 159.705. DIRECT REQUEST. (a) Authorizes a petitioner to file a direct request seeking establishment or modification of a support order or determination of parentage of a child. Provides that, in the proceeding, the law of this state applies.

(b) Authorizes a petitioner to file a direct request seeking recognition and enforcement of a support order or support agreement. Provides that, in the proceeding, Sections 159.706 through 159.713 apply.

(c) Provides that, in a direct request for recognition and enforcement of a Convention support order or foreign support agreement a security, bond, or deposit is not required to guarantee the payment of costs and expenses, and an obligee or obligor that in the issuing country has benefited from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of this state under the same circumstances.

(d) Provides that a petitioner filing a direct request is not entitled to assistance from OAG.

(e) Provides that this subchapter does not prevent the application of laws of this state that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

Sec. 159.706. REGISTRATION OF CONVENTION SUPPORT ORDER. (a) Requires a party who is an individual or a support enforcement agency seeking recognition of a Convention support order, except as otherwise provided in this subchapter, to register the order in this state as provided in Subchapter G.

(b) Requires that, notwithstanding Sections 159.311 and 159.602(a), a request for registration of a Convention support order be accompanied by:

(1) the complete text of the support order or an abstract or extract of the support order drawn up by the issuing foreign tribunal, which may be in the form recommended by the Hague Conference on Private International Law;

(2) a record stating that the support order is enforceable in the issuing country;

(3) if the respondent did not appear and was not represented in the proceedings in the issuing country, a record attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard or that the respondent had proper notice of the support order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal;

(4) a record showing the amount of arrears, if any, and the date the amount was calculated;

(5) a record showing a requirement for automatic adjustment of the amount of support, if any, and the information necessary to make the appropriate calculations; and

(6) if necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.

(c) Provides that a request for registration of a Convention support order may seek recognition and partial enforcement of the order.

(d) Authorizes a tribunal of this state to vacate the registration of a Convention support order without the filing of a contest under Section 159.707 only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.

(e) Requires the tribunal to promptly notify the parties of the registration or the order vacating the registration of a Convention support order.

Sec. 159.707. CONTEST OF REGISTERED CONVENTION SUPPORT ORDER. (a) Provides that, except as otherwise provided in this subchapter, Sections 159.605 through 159.608 apply to a contest of a registered Convention support order.

(b) Requires a party contesting a registered Convention support order to file a contest not later than 30 days after notice of the registration. Requires that, if the contesting party does not reside in the United States, the contest be filed not later than 60 days after notice of the registration.

(c) Provides that, if the nonregistering party fails to contest the registered Convention support order by the time specified in Subsection (b), the order is enforceable.

(d) Authorizes a contest of a registered Convention support order to be based only on grounds set forth in Section 159.708. Provides that the contesting party bears the burden of proof.

(e) Provides that, in a contest of a registered Convention support order, a tribunal of this state is bound by the findings of fact on which the foreign tribunal based its jurisdiction and is prohibited from reviewing the merits of the order.

(f) Requires a tribunal of this state deciding a contest of a registered Convention support order to promptly notify the parties of its decision.

(g) Provides that a challenge or appeal, if any, does not stay the enforcement of a Convention support order unless there are exceptional circumstances.

Sec. 159.708. RECOGNITION AND ENFORCEMENT OF REGISTERED CONVENTION SUPPORT ORDER. (a) Requires a tribunal of this state, except as otherwise provided in Subsection (b), to recognize and enforce a registered Convention support order.

(b) Provides that the following grounds are the only grounds on which a tribunal of this state may refuse recognition and enforcement of a registered Convention support order:

(1) recognition and enforcement of the order is manifestly incompatible with public policy, including the failure of the issuing tribunal to observe minimum standards of due process, which include notice and an opportunity to be heard;

(2) the issuing tribunal lacked personal jurisdiction consistent with Section 159.201;

(3) the order is not enforceable in the issuing country;

(4) the order was obtained by fraud in connection with a matter of procedure;

(5) a record transmitted in accordance with Section 159.706 lacks authenticity or integrity;

(6) a proceeding between the same parties and having the same purpose is pending before a tribunal of this state and that proceeding was the first to be filed;

(7) the order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this chapter in this state;

(8) payment, to the extent alleged arrears have been paid in whole or in part;

(9) in a case in which the respondent neither appeared nor was represented in the proceeding in the issuing foreign country if the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard, or if the law of that country does not provide for prior notice of the

proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(10) the order was made in violation of Section 159.711.

(c) Provides that, if a tribunal of this state does not recognize a Convention support order under Subsection (b)(2), (4), or (9), the tribunal is prohibited from dismissing the proceeding without allowing a reasonable time for a party to request the establishment of a new Convention support order, and OAG is required to take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under Section 159.704.

Sec. 159.709. PARTIAL ENFORCEMENT. Requires a tribunal, if a tribunal of this state does not recognize and enforce a Convention support order in its entirety, to enforce any severable part of the order. Provides that an application or direct request may seek recognition and partial enforcement of a Convention support order.

Sec. 159.710. FOREIGN SUPPORT AGREEMENT. (a) Requires a tribunal of this state to recognize and enforce a foreign support agreement registered in this state except as otherwise provided by Subsections (c) and (d).

(b) Requires that an application or direct request for recognition and enforcement of a foreign support agreement be accompanied by the complete text of the foreign support agreement and a record stating that the foreign support agreement is enforceable as an order of support in the issuing country.

(c) Authorizes a tribunal of this state to vacate the registration of a foreign support agreement only if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly incompatible with public policy.

(d) Authorizes a tribunal of this state, in a contest of a foreign support agreement, to refuse recognition and enforcement of the agreement if it finds:

(1) recognition and enforcement of the agreement is manifestly incompatible with public policy;

(2) the agreement was obtained by fraud or falsification;

(3) the agreement is incompatible with a support order involving the same parties and having the same purpose in this state, another state, or a foreign country if the support order is entitled to recognition and enforcement under this chapter in this state; or

(4) the record submitted under Subsection (b) lacks authenticity or integrity.

(e) Requires that a proceeding for recognition and enforcement of a foreign support agreement be suspended during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or a foreign country.

Sec. 159.711. MODIFICATION OF CONVENTION CHILD SUPPORT ORDER. (a) Prohibits a tribunal of this state from modifying a Convention child support order if the obligee remains a resident of the foreign country where the support order was issued unless:

(1) the obligee submits to the jurisdiction of a tribunal of this state, either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity; or

(2) the foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.

(b) Provides that, if a tribunal of this state does not modify a Convention child support order because the order is not recognized in this state, Section 159.708(c) applies.

Sec. 159.712. PERSONAL INFORMATION; LIMIT ON USE. Authorizes personal information gathered or transmitted under this subchapter to be used only for the purposes for which it was gathered or transmitted.

Sec. 159.713. RECORD IN ORIGINAL LANGUAGE; ENGLISH TRANSLATION. Requires that a record filed with a tribunal of this state under this subchapter be in the original language and, if not in English, be accompanied by an English translation.

SECTION 59. Amends Section 159.801(a), Family Code, to provide that, 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 and makes a nonsubstantive change.

SECTION 60. Amends Section 159.802(a), Family Code, as follows:

(a) Authorizes the governor of this state, before making a 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, to require a prosecutor of this state to demonstrate that, not less than 60 days previously, the obligee had initiated proceedings for support under this chapter or that the proceeding would be of no avail.

Deletes existing text authorizing the governor, before making a 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, to require a prosecutor of this state to demonstrate that not less than 60 days before the date of the demand the obligee had initiated proceedings for support under this chapter or that initiating the proceeding would be of no avail. Makes nonsubstantive changes.

SECTION 61. Amends Section 159.901, Family Code, as follows:

Sec. 159.901. UNIFORMITY OF APPLICATION AND CONSTRUCTION. Requires that, in applying and construing this uniform act, consideration be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it, rather than requiring that, in applying and construing this chapter, consideration be given to the need to promote uniformity of the law with respect to the subject matter of this chapter among states that enact a law similar to this chapter.

SECTION 62. Provides that Chapter 159, Family Code, as amended by this Act, applies to proceedings commenced on or after the effective date of this Act to establish a support order, determine parentage of a child, or register, recognize, enforce, or modify a prior support order, determination, or agreement regardless of the date the order, determination, or agreement was issued or entered.

SECTION 63. Effective date: July 1, 2015, or on the 91st day after the last day of the legislative session.