

Sixty-first
Legislative Assembly
of North Dakota

SENATE BILL NO. 2072

Introduced by

Human Services Committee

(At the request of the Commission on Uniform State Laws)

1 A BILL for an Act to create and enact sections 14-12.2-03.1, 14-12.2-12.1, 14-12.2-12.2,
2 14-12.2-32.1, 14-12.2-46.3, 14-12.2-46.4, 14-12.2-47.1, 14-12.2-47.2, 14-12.2-47.3,
3 14-12.2-47.4, 14-12.2-47.5, 14-12.2-47.6, 14-12.2-47.7, 14-12.2-47.8, 14-12.2-47.9,
4 14-12.2-47.10, 14-12.2-47.11, 14-12.2-47.12, and 14-12.2-47.13 of the North Dakota Century
5 Code, relating to the Uniform Interstate Family Support Act; to amend and reenact sections
6 14-12.2-01, 14-12.2-02, 14-12.2-03, 14-12.2-04, 14-12.2-05, 14-12.2-06, 14-12.2-07,
7 14-12.2-08, 14-12.2-09, 14-12.2-10, 14-12.2-11, 14-12.2-12, 14-12.2-13, 14-12.2-14,
8 14-12.2-15, 14-12.2-16, 14-12.2-17, 14-12.2-18, 14-12.2-19, 14-12.2-20, 14-12.2-22,
9 14-12.2-23, 14-12.2-24, 14-12.2-25, 14-12.2-26, 14-12.2-28, 14-12.2-29, 14-12.2-30,
10 14-12.2-31, 14-12.2-32, 14-12.2-33, 14-12.2-33.1, 14-12.2-33.2, 14-12.2-33.3, 14-12.2-33.4,
11 14-12.2-33.5, 14-12.2-34, 14-12.2-35, 14-12.2-36, 14-12.2-37, 14-12.2-38, 14-12.2-39,
12 14-12.2-40, 14-12.2-41, 14-12.2-43, 14-12.2-44, 14-12.2-45, 14-12.2-46, 14-12.2-46.1,
13 14-12.2-48, and 14-12.2-49 of the North Dakota Century Code, relating to the Uniform
14 Interstate Family Support Act; to repeal section 14-12.2-47 of the North Dakota Century Code,
15 relating to proceedings to determine parentage; to provide for application; and to provide an
16 effective date.

17 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

18 **SECTION 1. AMENDMENT.** Section 14-12.2-01 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **14-12.2-01. (~~101~~ 102) Definitions.** As used in this chapter:

21 1. "Child" means an individual, whether over or under the age of majority, who is or is
22 alleged to be owed a duty of support by the individual's parent or who is or is
23 alleged to be the beneficiary of a support order directed to the parent.

2. "Child support order" means a support order for a child, including a child who has attained the age of majority under the law of the issuing state or foreign country.
3. "Convention" means the convention on the international recovery of child support and other forms of family maintenance, concluded at The Hague on November 23, 2007.
4. "Duty of support" means an obligation imposed or imposable by law to provide support for a child, spouse, or former spouse, including an unsatisfied obligation to provide support.
5. "Foreign country" means a country, including a political subdivision thereof, other than the United States, that under its law authorizes the issuance of support orders and:
 - a. Which has been declared under the law of the United States to be a foreign reciprocating country;
 - b. Which has established a reciprocal arrangement for child support with this state as provided in section 14-12.2-20;
 - c. Which has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this chapter; or
 - d. In which the convention is in force with respect to the United States.
6. "Foreign support order" means a support order of a foreign tribunal.
7. "Foreign tribunal" means a court, administrative agency, or quasi-judicial entity of a foreign country authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority in a proceeding subject to sections 14-12.2-47.1 through 14.12.2-47.13, which may be a judicial or administrative authority in a proceeding in a foreign country.
- 4- 8. "Home state" means the state or foreign country in which a child lived with a parent or a person acting as parent for at least six consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than six months old, the state or foreign country in which the child lived from birth with any of them. A period of temporary absence of any of them is counted as part of the six-month period or other period.

- 1 5- 9. "Income" includes earnings or other periodic entitlements to money from any
2 source and any other property subject to withholding for support under the law of
3 this state.
- 4 6- 10. "Income-withholding order" means an order or other legal process directed to an
5 obligor's employer or income payer, as defined by section 14-09-09.10, to withhold
6 support from the income of the obligor.
- 7 7- ~~"Initiating state" means a state from which a proceeding is forwarded or in which a~~
8 ~~proceeding is filed for forwarding to a responding state under this chapter or a law~~
9 ~~or procedure substantially similar to this chapter, the Uniform Reciprocal~~
10 ~~Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of~~
11 ~~Support Act.~~
- 12 8- 11. "Initiating tribunal" means the authorized tribunal in an initiating state of a state or
13 foreign country from which a proceeding is forwarded or in which a proceeding is
14 filed for forwarding to another state or foreign country.
- 15 12. "Issuing foreign country" means the country in which a tribunal issues a support
16 order or judgment determining parentage.
- 17 9- 13. "Issuing state" means the state in which a tribunal issues a support order or
18 ~~renders~~ a judgment determining parentage.
- 19 10- 14. "Issuing tribunal" means the tribunal of a state or foreign country that issues a
20 support order or ~~renders~~ a judgment determining parentage of a child.
- 21 11- 15. "Law" includes decisional and statutory law and rules having the force of law.
- 22 12- 16. "Obligee" means:
23 a. An individual to whom a duty of support is or is alleged to be owed or in
24 whose favor a support order has been issued or a judgment determining
25 parentage has been ~~rendered~~ issued;
- 26 b. A state ~~or, a~~ political subdivision of a state, or a foreign country, to which the
27 rights under a duty of support or support order have been assigned or which
28 has independent claims based on financial assistance provided to an
29 individual obligee in place of child support; ~~or~~
- 30 c. An individual seeking a judgment determining parentage of the individual's
31 child; or

- 1 d. A person that is a creditor in a proceeding subject to sections 14-12.2-47.1
2 through 14-12.2-47.13.
- 3 ~~13.~~ 17. "Obligor" means an individual, or the estate of a decedent:
4 a. Who owes or is alleged to owe a duty of support;
5 b. Who is alleged but has not been adjudicated to be a parent of a child; ~~or~~
6 c. Who is liable under a support order; or
7 d. Who is a debtor in a proceeding subject to sections 14-12.2-47.1 through
8 14-12.2-47.13.
- 9 18. "Outside this state" means a location in another state or a country other than the
10 United States, whether or not the country is defined as a foreign country.
- 11 19. "Person" means an individual, corporation, business trust, estate, trust,
12 partnership, limited liability company, association, joint venture, public corporation,
13 government or governmental subdivision, agency, or instrumentality, or any other
14 legal or commercial entity.
- 15 20. "Record" means information that is inscribed on a tangible medium or that is stored
16 in an electronic or other medium and is retrievable in perceivable form.
- 17 ~~14.~~ 21. "Register" means to file in a tribunal of this state a support order or judgment
18 determining parentage ~~in the registry of foreign support orders~~ issued in another
19 state or foreign country.
- 20 ~~15.~~ 22. "Registering tribunal" means a tribunal in which a support order or judgment
21 determining parentage is registered.
- 22 ~~16.~~ 23. "Responding state" means a state in which a proceeding is filed or to which a
23 proceeding is forwarded for filing from ~~an initiating another state under this chapter~~
24 ~~or a law or procedure substantially similar to this chapter, the Uniform Reciprocal~~
25 ~~Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of~~
26 ~~Support Act~~ or foreign country.
- 27 ~~17.~~ 24. "Responding tribunal" means the authorized tribunal in a responding state or
28 foreign country.
- 29 ~~18.~~ 25. "Spousal support order" means a support order for a spouse or former spouse of
30 the obligor.

- 1 ~~19.~~ 26. "State" means a state of the United States, the District of Columbia, Puerto Rico,
2 the United States Virgin Islands, or any territory or insular possession subject to
3 the jurisdiction of the United States. The term includes:
- 4 a. ~~An an~~ an Indian nation or tribe; and
5 b. ~~A foreign jurisdiction that has enacted a law or established procedures for~~
6 ~~issuance and enforcement of support orders which are substantially similar to~~
7 ~~the procedures under this chapter, the Uniform Reciprocal Enforcement of~~
8 ~~Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.~~
- 9 ~~20.~~ 27. "Support enforcement agency" means a public official or agency authorized to
10 seek:
- 11 a. ~~Enforcement~~ Seek enforcement of support orders or laws relating to the duty
12 of support;
13 b. ~~Establishment~~ Seek establishment or modification of child support;
14 c. ~~Determination~~ Request determination of parentage of a child; or
15 d. ~~To Attempt to~~ locate obligors or their assets; or
16 e. Request determination of the controlling child support order.
- 17 ~~21.~~ 28. "Support order" means a judgment, decree, ~~or~~ order, decision, or directive,
18 whether temporary, final, or subject to modification, issued in a state or foreign
19 country for the benefit of a child, a spouse, or a former spouse, which provides for
20 monetary support, health care, arrearages, retroactive support, or reimbursement;
21 ~~and for financial assistance provided to an individual obligee in place of child~~
22 support. The support order may include related costs and fees, interest, income
23 withholding, automatic adjustment, attorney's fees, and other relief.
- 24 ~~22.~~ 29. "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized
25 to establish, enforce, or modify support orders or to determine parentage.
- 26 30. "United States" means all states.

27 **SECTION 2. AMENDMENT.** Section 14-12.2-02 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **14-12.2-02. (~~102 103~~) Tribunal of this state State tribunal and support**
30 **enforcement agency.**

- 31 1. The district court is the tribunal of this state.

2. The department of human services is the support enforcement agency of this state.

SECTION 3. AMENDMENT. Section 14-12.2-03 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-03. (~~103~~ 104) Remedies cumulative.

1. Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law or the recognition of a support order on the basis of comity.

2. This chapter does not:

a. Provide the exclusive method of establishing or enforcing a support order under the law of this state; or

b. Grant a tribunal of this state jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this chapter.

SECTION 4. Section 14-12.2-03.1 of the North Dakota Century Code is created and enacted as follows:

14-12.2-03.1. (105) Application of chapter to resident of foreign country and foreign support proceeding.

1. A tribunal of this state shall apply sections 14-12.2-01 through 14-12.2-46.4 and, as applicable, sections 14-12.2-47.1 through 14-12.2-47.13, to a support proceeding involving:

a. A foreign support order;

b. A foreign tribunal; or

c. An obligee, obligor, or child residing in a foreign country.

2. A tribunal of this state that is requested to recognize and enforce a support order on the basis of comity may apply the procedural and substantive provisions of sections 14-12.2-01 through 14-12.2-46.4.

3. Sections 14-12.2-47.1 through 14-12.2-47.13 apply only to a support proceeding subject to the convention. In such a proceeding, if a provision of sections 14-12.2-47.1 through 14-12.2-47.13 is inconsistent with a provision of sections 14-12.2-01 through 14-12.2-46.4, sections 14-12.2-47.1 through 14-12.2-47.13 control.

SECTION 5. AMENDMENT. Section 14-12.2-04 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-04. (201) Bases for jurisdiction over nonresident.

1. In a proceeding to establish, ~~or enforce, or modify~~ a support order or to determine parentage of a child, a tribunal of this state may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

- ~~1.~~ a. The individual is personally served with a summons within this state;
- ~~2.~~ b. 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.~~ c. The individual resided with the child in this state;
- ~~4.~~ d. The individual resided in this state and provided prenatal expenses or support for the child;
- ~~5.~~ e. The child resides in this state as a result of the acts or directives of the individual;
- ~~6.~~ f. The individual engaged in sexual intercourse in this state and the child may have been conceived by that act of intercourse; or
- ~~7.~~ g. There is any other basis consistent with the constitutions of this state and the United States for the exercise of personal jurisdiction.

2. The bases of personal jurisdiction set forth in subsection 1 or any other law of this state may not be 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 14-12.2-45 are met, or, in the case of a foreign support order, unless the requirements of section 14-12.2-46.3 are met.

SECTION 6. AMENDMENT. Section 14-12.2-05 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-05. (202) ~~Procedure when exercising jurisdiction over nonresident~~

Duration of personal jurisdiction. ~~A tribunal of this state exercising personal jurisdiction over a nonresident under section 14-12.2-04 may apply section 14-12.2-28 to receive evidence from another state and section 14-12.2-30 to obtain discovery through a tribunal of another state. In all other respects, sections 14-12.2-13 through 14-12.2-47 do not apply and the tribunal shall~~

~~apply the procedural and substantive law of this state, including the rules on choice of law other than those established by this chapter.~~ 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 as provided by sections 14-12.2-08, 14-12.2-09, and 14-12.2-12.2.

SECTION 7. AMENDMENT. Section 14-12.2-06 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-06. (203) Initiating and responding tribunal of this state. Under this chapter, a tribunal of this state may 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 foreign country.

SECTION 8. AMENDMENT. Section 14-12.2-07 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-07. (204) Simultaneous proceedings in another state.

1. A tribunal of this state may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a petition or comparable pleading is filed in another state or foreign country only if:
 - a. The petition or comparable pleading in this state is filed before the expiration of the time allowed in the other state or foreign country for filing a responsive pleading challenging the exercise of jurisdiction by the other state or foreign country;
 - b. The contesting party timely challenges the exercise of jurisdiction in the other state or foreign country; and
 - c. If relevant, this state is the home state of the child.
2. A tribunal of this state may not exercise 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 foreign country if:
 - a. The petition or comparable pleading in the other state or foreign country is filed before the expiration of the time allowed in this state for filing a responsive pleading challenging the exercise of jurisdiction by this state;

- 1 b. The contesting party timely challenges the exercise of jurisdiction in this state;
2 and
3 c. If relevant, the other state or foreign country is the home state of the child.

4 **SECTION 9. AMENDMENT.** Section 14-12.2-08 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **14-12.2-08. (205) Continuing, exclusive jurisdiction to modify child support order.**

- 7 1. A tribunal of this state ~~issuing~~ that has issued a child support order consistent with
8 the law of this state has and shall exercise continuing, exclusive jurisdiction ~~over a~~
9 to modify its child support order if the order is the controlling order and:
10 a. ~~As long as~~ At the time of the filing of a request for modification this state
11 ~~remains~~ is the residence of the obligor, the individual obligee, or the child for
12 whose benefit the support order is issued; or
13 b. ~~Until all of the parties who are individuals have filed written consents with the~~
14 ~~tribunal of this state for a tribunal of another state to modify the order and~~
15 ~~assume continuing, exclusive jurisdiction. Even if this state is not the~~
16 residence of the obligor, the individual obligee, or the child for whose benefit
17 the support order is issued, the parties consent in a record or in open court
18 that the tribunal of this state may continue to exercise jurisdiction to modify its
19 order.
20 2. A tribunal of this state ~~issuing~~ that has issued a child support order consistent with
21 the law of this state may not exercise ~~its~~ continuing, exclusive jurisdiction to modify
22 the order if ~~the order has been modified by a tribunal of another state pursuant to~~
23 ~~the Uniform Interstate Family Support Act or a law substantially similar to this~~
24 ~~chapter.~~
25 a. All of the parties who are individuals file consent in a record with the tribunal
26 of this state that a tribunal of another state that has jurisdiction over at least
27 one of the parties who is an individual or that is located in the state of
28 residence of the child may modify the order and assume continuing, exclusive
29 jurisdiction; or
30 b. Its order is not the controlling order.

3. ~~If a child support order of this state is modified by a tribunal of another state pursuant to the Uniform Interstate Family Support Act or a law substantially similar to this chapter, a tribunal of this state loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this state, and may only:~~
 - a. ~~Enforce the order that was modified as to amounts accruing before the modification;~~
 - b. ~~Enforce nonmodifiable aspects of that order; and~~
 - c. ~~Provide other appropriate relief for violations of that order which occurred before the effective date of the modification.~~
4. ~~A tribunal of this state shall recognize the continuing, exclusive jurisdiction of~~ If a tribunal of another state which has issued a child support order pursuant to the Uniform Interstate Family Support Act or a law substantially similar to this chapter that Act which modifies a child support order of a tribunal of this state, tribunals of this state shall recognize the continuing, exclusive jurisdiction of the tribunal of the other state.
4. A tribunal of this state that lacks continuing, exclusive jurisdiction to modify a child support order may serve as an initiating tribunal to request a tribunal of another state to modify a support order issued in that state.
5. A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.
6. ~~A tribunal of this state issuing a support order consistent with the law of this state has continuing, exclusive jurisdiction over a spousal support order throughout the existence of the support obligation. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state having continuing, exclusive jurisdiction over that order under the law of that state.~~

SECTION 10. AMENDMENT. Section 14-12.2-09 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-09. (206) Enforcement and modification of support order by tribunal
~~having continuing jurisdiction~~ Continuing jurisdiction to enforce child support order.

1. A tribunal of this state that has issued a child support order consistent with the law of this state may serve as an initiating tribunal to request a tribunal of another state to enforce ~~or modify a support order issued in that state~~:
 - a. The order if the order is the controlling order and has not been modified by a tribunal of another state that assumed jurisdiction pursuant to the Uniform Interstate Family Support Act; or
 - b. A money judgment for arrears of support and interest on the order accrued before a determination that an order of a tribunal of another state is the controlling order.
2. A tribunal of this state having continuing, ~~exclusive~~ jurisdiction over a support order may act as a responding tribunal to enforce ~~or modify~~ the order. ~~If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing state, in subsequent proceedings the tribunal may apply section 14-12.2-28 to receive evidence from another state and section 14-12.2-30 to obtain discovery through a tribunal of another state.~~
3. ~~A tribunal of this state which lacks continuing, exclusive jurisdiction over a spousal support order may not serve as a responding tribunal to modify a spousal support order of another state.~~

SECTION 11. AMENDMENT. Section 14-12.2-10 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-10. (207) ~~Recognition~~ Determination of controlling child support order.

1. If a proceeding is brought under this chapter and only one tribunal has issued a child support order, the order of that tribunal controls and must be so recognized.
2. If a proceeding is brought under this chapter, and two or more child support orders have been issued by tribunals of this state or another state or foreign country with regard to the same obligor and same child, a tribunal of this state having personal jurisdiction over both the obligor and individual obligee shall apply the following rules ~~in determining and by order shall determine~~ which order ~~to recognize for purposes of continuing, exclusive jurisdiction~~ controls:
 - a. If only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the order of that tribunal controls and must be so recognized.

- 1 b. If more than one of the tribunals would have continuing, exclusive jurisdiction
2 under this chapter, ~~an~~:
- 3 (1) An order issued by a tribunal in the current home state of the child
4 controls and must be so recognized, but if; or
- 5 (2) If an order has not been issued in the current home state of the child,
6 the order most recently issued controls and must be so recognized.
- 7 c. If none of the tribunals would have continuing, exclusive jurisdiction under this
8 chapter, the tribunal of this state ~~having jurisdiction over the parties~~ shall
9 issue a child support order, which controls ~~and must be so recognized.~~
- 10 3. If two or more child support orders have been issued for the same obligor and
11 ~~same child and if the obligor or the individual obligee resides in this state, a, upon~~
12 request of a party may request who is an individual or a support enforcement
13 agency, a tribunal of this state to having personal jurisdiction over both the obligor
14 and obligee who is an individual shall determine which order controls and must be
15 so recognized under subsection 2. The request must be accompanied by a
16 certified copy of every support order in effect. The requesting party shall give
17 notice of the request to each party whose rights may be affected by the
18 determination. The request may be filed with a registration for enforcement or
19 registration for modification pursuant to sections 14-12.2-35 through 14-12.2-46.4,
20 or may be filed as a separate proceeding.
- 21 4. A request to determine which is the controlling order must be accompanied by a
22 copy of every child support order in effect and the applicable record of payments.
23 The requesting party shall give notice of the request to each party whose rights
24 may be affected by the determination.
- 25 5. The tribunal that issued the controlling order under subsection 1, 2, or 3 ~~is the~~
26 ~~tribunal that~~ has continuing, ~~exclusive jurisdiction under~~ to the extent provided in
27 section 14-12.2-08 or 14-12.2-09.
- 28 5- 6. A tribunal of this state ~~which that~~ determines by order ~~the identity of which is the~~
29 controlling order under subdivision a or b of subsection 2 or ~~which~~ subsection 3
30 that issues a new controlling order under subdivision c of subsection 2 shall state
31 in that order ~~the~~:

- a. The basis upon which the tribunal made its determination;
- b. The amount of prospective support, if any; and
- c. The total amount of consolidated arrears and accrued interest, if any, under all of the orders after all payments made are credited as provided in by section 14-12.2-12.

- ~~6- 7.~~ 7. Within thirty days after issuance of an order determining the identity of which is the controlling order, the party obtaining the order shall file a certified copy of it with in each tribunal that had issued or registered an earlier order of child support. A party who obtains or support enforcement agency obtaining the order and that fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.
8. An order that has been determined to be the controlling order, or a judgment for consolidated arrears of support and interest, if any, made pursuant to this section must be recognized in proceedings under this chapter.

SECTION 12. AMENDMENT. Section 14-12.2-11 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-11. (208) ~~Multiple child~~ Child support orders for two or more obligees. In responding to ~~multiple~~ 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 foreign country, a tribunal of this state shall enforce those orders in the same manner as if the ~~multiple~~ orders had been issued by a tribunal of this state.

SECTION 13. AMENDMENT. Section 14-12.2-12 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-12. (209) Credit for payments. Amounts A tribunal of this state shall credit amounts collected and credited for a particular period pursuant to a 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 or another state must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this state or foreign country.

SECTION 14. Section 14-12.2-12.1 of the North Dakota Century Code is created and enacted as follows:

14-12.2-12.1. (210) Application of chapter to nonresident subject to personal jurisdiction. A tribunal of this state exercising personal jurisdiction over a nonresident in a proceeding under this chapter, under other law of this state relating to a support order, or recognizing a foreign support order may receive evidence from outside this state pursuant to section 14-12.2-28, communicate with a tribunal outside this state pursuant to section 14-12.2-29, and obtain discovery through a tribunal outside this state pursuant to section 14-12.2-30. In all other respects, sections 14-12.2-13 through 14-12.2-47.13 do not apply and the tribunal shall apply the procedural and substantive law of this state.

SECTION 15. Section 14-12.2-12.2 of the North Dakota Century Code is created and enacted as follows:

14-12.2-12.2. (211) Continuing, exclusive jurisdiction to modify spousal support order.

1. A tribunal of this state issuing a spousal support order consistent with the law of this state has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.
2. A tribunal of this state may not modify a spousal support order issued by a tribunal of another state or foreign country having continuing, exclusive jurisdiction over that order under the law of that state or foreign country.
3. A tribunal of this state that has continuing, exclusive jurisdiction over a spousal support order may serve as:
 - a. An initiating tribunal to request a tribunal of another state to enforce the spousal support order issued in this state; or
 - b. A responding tribunal to enforce or modify its own spousal support order.

SECTION 16. AMENDMENT. Section 14-12.2-13 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-13. (301) Proceedings under this chapter.

1. Except as otherwise provided in this chapter, sections 14-12.2-13 through 14-12.2-31 apply to all proceedings under this chapter.
2. ~~This chapter provides for the following proceedings:~~

- a. ~~Establishment of an order for spousal support or child support under section 14-12.2-32;~~
- b. ~~Enforcement of a support order and income withholding order of another state without registration under sections 14-12.2-33 and 14-12.2-34;~~
- c. ~~Registration of an order for spousal support or child support of another state for enforcement under sections 14-12.2-35 through 14-12.2-46;~~
- d. ~~Modification of an order for child support or spousal support issued by a tribunal of this state under sections 14-12.2-06 through 14-12.2-09;~~
- e. ~~Registration of an order for child support of another state for modification under sections 14-12.2-35 through 14-12.2-46;~~
- f. ~~Determination of parentage under section 14-12.2-47; and~~
- g. ~~Assertion of jurisdiction over nonresidents under sections 14-12.2-04 and 14-12.2-05.~~

3. An individual petitioner or a support enforcement agency may ~~commence~~ 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 which has or can obtain personal jurisdiction over the respondent.

SECTION 17. AMENDMENT. Section 14-12.2-14 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-14. (302) Action Proceeding by minor parent. A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor's child.

SECTION 18. AMENDMENT. Section 14-12.2-15 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-15. (303) Application of law of this state. Except as otherwise provided by this chapter, a responding tribunal of this state shall:

1. ~~Shall apply~~ Apply the procedural and substantive law, ~~including the rules on choice of law,~~ generally applicable to similar proceedings originating in this state and may exercise all powers and provide all remedies available in those proceedings; and

2. ~~Shall determine~~ Determine the duty of support and the amount payable in accordance with the law and support guidelines of this state.

SECTION 19. AMENDMENT. Section 14-12.2-16 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-16. (304) Duties of initiating tribunal.

1. Upon the filing of a petition authorized by this chapter, an initiating tribunal of this state shall forward ~~three copies of~~ the petition and its accompanying documents:
 - a. To the responding tribunal or appropriate support enforcement agency in the responding state; or
 - b. If the identity of the responding tribunal is unknown, to the state information agency of the responding state with a request that they be forwarded to the appropriate tribunal and that receipt be acknowledged.
2. ~~If a responding state has not enacted the Uniform Interstate Family Support Act or a law or procedure substantially similar to this chapter~~ requested by the responding tribunal, a tribunal of this state ~~may~~ shall issue a certificate or other document and make findings required by the law of the responding state. If the responding ~~state~~ tribunal is in a foreign jurisdiction country, upon request the tribunal ~~may~~ of this state shall specify the amount of support sought ~~and~~, convert that amount into the equivalent amount in the foreign currency under applicable official or market exchange rate as publicly reported, and provide any other documents necessary to satisfy the requirements of the responding state foreign tribunal.

SECTION 20. AMENDMENT. Section 14-12.2-17 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-17. (305) Duties and powers of responding tribunal.

1. When a responding tribunal of this state receives a petition or comparable pleading from an initiating tribunal or directly under subsection ~~3~~ 2 of section 14-12.2-13, it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed.
2. A responding tribunal of this state, to the extent ~~otherwise authorized~~ not prohibited by other law, may do one or more of the following:

- 1 a. ~~Issue~~ Establish or enforce a support order, modify a child support order,
- 2 determine the controlling child support order, or ~~render a judgment to~~
- 3 determine parentage of a child;
- 4 b. Order an obligor to comply with a support order, specifying the amount and
- 5 the manner of compliance;
- 6 c. Order income withholding;
- 7 d. Determine the amount of any arrearages, and specify a method of payment;
- 8 e. Enforce orders by civil or criminal contempt, or both;
- 9 f. Set aside property for satisfaction of the support order;
- 10 g. Place liens and order execution on the obligor's property;
- 11 h. Order an obligor to keep the tribunal informed of the obligor's current
- 12 residential address, electronic mail address, telephone number, employer,
- 13 address of employment, and telephone number at the place of employment;
- 14 i. Issue a bench warrant for an obligor who has failed after proper notice to
- 15 appear at a hearing ordered by the tribunal and enter the bench warrant in
- 16 any local and state computer systems for criminal warrants;
- 17 j. Order the obligor to seek appropriate employment by specified methods;
- 18 k. Award reasonable attorney's fees and other fees and costs; and
- 19 l. Grant any other available remedy.
- 20 3. A responding tribunal of this state shall include in a support order issued under this
- 21 chapter, or in the documents accompanying the order, the calculations on which
- 22 the support order is based.
- 23 4. A responding tribunal of this state may not condition the payment of a support
- 24 order issued under this chapter upon compliance by a party with provisions for
- 25 visitation.
- 26 5. If a responding tribunal of this state issues an order under this chapter, the tribunal
- 27 shall send a copy of the order to the petitioner and the respondent and to the
- 28 initiating tribunal, if any.
- 29 6. If requested to enforce a support order, arrears, or judgment or modify a support
- 30 order stated in a foreign currency, a responding tribunal of this state shall convert

1 the amount stated in the foreign currency to the equivalent amount in dollars under
2 the applicable official or market exchange rate as publicly reported.

3 **SECTION 21. AMENDMENT.** Section 14-12.2-18 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **14-12.2-18. (306) Inappropriate tribunal.** If a petition or comparable pleading is
6 received by an inappropriate tribunal of this state, ~~it~~ the tribunal shall forward the pleading and
7 accompanying documents to an appropriate tribunal ~~in~~ of this state or another state and notify
8 the petitioner where and when the pleading was sent.

9 **SECTION 22. AMENDMENT.** Section 14-12.2-19 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **14-12.2-19. (307) Duties of support enforcement agency.**

- 12 1. A support enforcement agency of this state, upon request, shall provide services to
13 a petitioner in a proceeding under this chapter.
- 14 2. A support enforcement agency of this state that is providing services to the
15 petitioner ~~as appropriate~~ shall:
 - 16 a. Take all steps necessary to enable an appropriate tribunal ~~in~~ of this state or
17 another state or foreign country to obtain jurisdiction over the respondent;
 - 18 b. Request an appropriate tribunal to set a date, time, and place for a hearing;
 - 19 c. Make a reasonable effort to obtain all relevant information, including
20 information as to income and property of the parties;
 - 21 d. Within two days, exclusive of Saturdays, Sundays, and legal holidays, after
22 receipt of ~~a written~~ notice in a record from an initiating, responding, or
23 registering tribunal, send a copy of the notice to the petitioner;
 - 24 e. Within two days, exclusive of Saturdays, Sundays, and legal holidays, after
25 receipt of ~~a written~~ communication in a record from the respondent or the
26 respondent's attorney, send a copy of the communication to the petitioner;
27 and
 - 28 f. Notify the petitioner if jurisdiction over the respondent cannot be obtained.
- 29 3. A support enforcement agency of this state which requests registration of a child
30 support order in this state for enforcement or for modification shall make
31 reasonable efforts:

- 1 a. To ensure that the order to be registered is the controlling order; or
- 2 b. If two or more child support orders exist and the identity of the controlling
- 3 order has not been determined, to ensure that a request for such a
- 4 determination is made in a tribunal having jurisdiction to do so.
- 5 4. A support enforcement agency of this state which requests registration and
- 6 enforcement of a support order, arrears, or judgment stated in a foreign currency
- 7 shall convert the amounts stated in the foreign currency into the equivalent
- 8 amounts in dollars under the applicable official or market exchange rate as publicly
- 9 reported.
- 10 5. A support enforcement agency of this state shall request a tribunal of this state to
- 11 issue a child support order and an income withholding order that redirect payment
- 12 of current support, arrears, and interest if requested to do so by a support
- 13 enforcement agency of another state pursuant to section 14-12.2-31.
- 14 6. This chapter does not create or negate a relationship of attorney and client or other
- 15 fiduciary relationship between a support enforcement agency or the attorney for the
- 16 agency and the individual being assisted by the agency.

17 **SECTION 23. AMENDMENT.** Section 14-12.2-20 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **14-12.2-20. (308) Duty of attorney general.**

- 20 1. If the attorney general determines that the support enforcement agency is
- 21 neglecting or refusing to provide services to an individual, the attorney general may
- 22 order the agency to perform its duties under this chapter or may provide those
- 23 services directly to the individual.
- 24 2. The attorney general may determine that a foreign country has established a
- 25 reciprocal arrangement for child support with this state and take appropriate action
- 26 for notification of the determination.

27 **SECTION 24. AMENDMENT.** Section 14-12.2-22 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **14-12.2-22. (310) Duties of state information agency.**

- 30 1. The department of human services is the state information agency under this
- 31 chapter.

2. The state information agency shall:

- a. Compile and maintain a current list, including addresses, of the tribunals in this state which have jurisdiction under this chapter and any support enforcement agencies in this state and transmit a copy to the state information agency of every other state.
- b. Maintain a register of names and addresses of tribunals and support enforcement agencies received from other states.
- c. Forward to the appropriate tribunal in the ~~place~~ county in this state in which the ~~individual~~ 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 ~~an initiating tribunal or the state information agency of the initiating state~~ another state or foreign country.
- d. Obtain information concerning the location of the obligor and the obligor's property within this state not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

SECTION 25. AMENDMENT. Section 14-12.2-23 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-23. (311) Pleadings and accompanying documents.

1. ~~A~~ In a proceeding under this chapter, a petitioner seeking to establish ~~or modify~~ a support order ~~or, to determine parentage in a proceeding under this chapter, or to~~ register and modify a support order of a tribunal of another state or foreign country must ~~verify the file~~ file a petition. Unless otherwise ordered under section 14-12.2-24, the petition or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee ~~or the parent and alleged parent~~, and the name, sex, residential address, social security number, and date of birth of each child for ~~whom~~ whose benefit support is sought or whose parentage is to be determined. ~~The~~ Unless filed at the time of

1 registration, the petition must be accompanied by a certified copy of any support
2 order in effect known to have been issued by another tribunal. The petition may
3 include any other information that may assist in locating or identifying the
4 respondent.

- 5 2. The petition must specify the relief sought. The petition and accompanying
6 documents must conform substantially with the requirements imposed by the forms
7 mandated by federal law for use in cases filed by a support enforcement agency.

8 **SECTION 26. AMENDMENT.** Section 14-12.2-24 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **14-12.2-24. (312) Nondisclosure of information in exceptional circumstances.**

11 ~~Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child~~
12 ~~would be unreasonably put at risk by the disclosure of identifying information, or if an existing~~
13 ~~order so provides, a tribunal shall order that the address of the child or party or other identifying~~
14 ~~information not be disclosed in a pleading or other document filed in a proceeding under this~~
15 ~~chapter.~~ If a party alleges in an affidavit or a pleading under oath that the health, safety, or
16 liberty of a party or child would be jeopardized by disclosure of specific identifying information,
17 that information must be sealed and may not be disclosed to the other party or the public. After
18 a hearing in which a tribunal takes into consideration the health, safety, or liberty of the party or
19 child, the tribunal may order disclosure of information that the tribunal determines to be in the
20 interest of justice.

21 **SECTION 27. AMENDMENT.** Section 14-12.2-25 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **14-12.2-25. (313) Costs and fees.**

- 24 1. The petitioner may not be required to pay a filing fee or other costs.
25 2. If an obligee prevails, a responding tribunal of this state may assess against an
26 obligor filing fees, reasonable attorney's fees, other costs, and necessary travel
27 and other reasonable expenses incurred by the obligee and the obligee's
28 witnesses. The tribunal may not assess fees, costs, or expenses against the
29 obligee or the support enforcement agency of either the initiating or the responding
30 state or foreign country, except as provided by other law. Attorney's fees may be
31 taxed as costs, and may be ordered paid directly to the attorney, who may enforce

the order in the attorney's own name. Payment of support owed to the obligee has priority over fees, costs, and expenses.

3. The tribunal shall order the payment of costs and reasonable attorney's fees if it determines that a hearing was requested primarily for delay. In a proceeding under sections 14-12.2-35 through 14-12.2-46, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

SECTION 28. AMENDMENT. Section 14-12.2-26 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-26. (314) Limited immunity of petitioner.

1. Participation by a petitioner in a proceeding under this chapter before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the petitioner in another proceeding.
2. A petitioner is not amenable to service of civil process while physically present in this state to participate in a proceeding under this chapter.
3. The 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 29. AMENDMENT. Section 14-12.2-28 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-28. (316) Special rules of evidence and procedure.

1. The physical presence of ~~the petitioner~~ a nonresident party who is an individual in a ~~responding~~ 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.
2. ~~A verified petition;~~ An affidavit, a document substantially complying with federally mandated forms, and or a document incorporated by reference in any of them, which would not be excluded under the hearsay rule if given in person, is admissible in evidence if given under oath penalty of perjury by a party or witness residing in another outside this state.

3. A copy of the record of child support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it and is admissible to show whether payments were made.
4. Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least ten days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.
5. Documentary evidence transmitted from ~~another~~ outside this state to a tribunal of this state by telephone, telecopier, or other means that do not provide an original ~~writing~~ record may not be excluded from evidence on an objection based on the means of transmission.
6. In a proceeding under this chapter, a tribunal of this state ~~may~~ shall permit a party or witness residing in ~~another~~ outside this state to be deposed or to testify by telephone, audiovisual means, or other electronic means at a designated tribunal or other location in that state. A tribunal of this state shall cooperate with other ~~tribunals of other states~~ in designating an appropriate location for the deposition or testimony.
7. If a party called to testify at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.
8. A privilege against disclosure of communications between spouses does not apply in a proceeding under this chapter.
9. The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this chapter.
10. A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish parentage of the child.

SECTION 30. AMENDMENT. Section 14-12.2-29 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-29. (317) Communications between tribunals. A tribunal of this state may communicate with a tribunal ~~of another~~ outside this state in ~~writing~~ a record, or by telephone or

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

5 **SECTION 31. AMENDMENT.** Section 14-12.2-30 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **14-12.2-30. (318) Assistance with discovery.** A tribunal of this state may:

- 8 1. Request a tribunal ~~of another~~ outside this state to assist in obtaining discovery;
- 9 and
- 10 2. Upon request, compel a person over whom it has jurisdiction to respond to a
11 discovery order issued by a tribunal ~~of another~~ outside this state.

12 **SECTION 32. AMENDMENT.** Section 14-12.2-31 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **14-12.2-31. (319) Receipt and disbursement of payments.**

- 15 1. A support enforcement agency or tribunal of this state shall disburse promptly any
16 amounts received pursuant to a support order, as directed by the order. The
17 agency or tribunal shall furnish to a requesting party or tribunal of another state or
18 foreign country a certified statement by the custodian of the record of the amounts
19 and dates of all payments received.
- 20 2. If neither the obligor, nor the obligee who is an individual, nor the child resides in
21 this state, upon request from the support enforcement agency of this state or
22 another state, the support enforcement agency of this state or a tribunal of this
23 state shall:
 - 24 a. Direct that the support payment be made to the support enforcement agency
25 in the state in which the obligee is receiving services; and
 - 26 b. Issue and send to the obligor's employer a conforming income-withholding
27 order or an administrative notice of change of payee, reflecting the redirected
28 payments.
- 29 3. The support enforcement agency of this state receiving redirected payments from
30 another state pursuant to a law similar to subsection 2 shall furnish to a requesting

1 party or tribunal of the other state a certified statement by the custodian of the
2 record of the amount and dates of all payments received.

3 **SECTION 33. AMENDMENT.** Section 14-12.2-32 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **14-12.2-32. (401) Petition to establish support order.**

6 1. If a support order entitled to recognition under this chapter has not been issued, a
7 responding tribunal of this state with personal jurisdiction over the parties may
8 issue a support order if:

9 a. The individual seeking the order resides ~~in another~~ outside this state; or

10 b. The support enforcement agency seeking the order is located ~~in another~~
11 outside this state.

12 2. The tribunal may issue a temporary child support order if the tribunal determines
13 that such an order is appropriate and the individual ordered to pay is:

14 a. ~~The respondent has signed a verified statement acknowledging parentage~~ A
15 presumed father of the child;

16 b. ~~The respondent has been determined by or pursuant to law to be the parent~~
17 Petitioning to have his paternity adjudicated; or

18 c. ~~There is other clear and convincing evidence that the respondent is the child's~~
19 parent Identified as the father of the child through genetic testing;

20 d. An alleged father who has declined to submit to genetic testing;

21 e. Shown by clear and convincing evidence to be the father of the child;

22 f. An acknowledged father as provided by chapter 14-20;

23 g. The mother of the child; or

24 h. An individual who has been ordered to pay child support in a previous
25 proceeding and the order has not been reversed or vacated.

26 3. Upon finding, after notice and opportunity to be heard, that an obligor owes a duty
27 of support, the tribunal shall issue a support order directed to the obligor and may
28 issue other orders under section 14-12.2-17.

29 **SECTION 34.** Section 14-12.2-32.1 of the North Dakota Century Code is created and
30 enacted as follows:

1 **14-12.2-32.1. (402) Proceeding to determine parentage.** A tribunal of this state
2 authorized to determine parentage of a child may serve as a responding tribunal in a
3 proceeding to determine parentage brought under this chapter or a law or procedure
4 substantially similar to this chapter.

5 **SECTION 35. AMENDMENT.** Section 14-12.2-33 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **14-12.2-33. (501) Employer's receipt of income-withholding order of another state.**
8 An income-withholding order issued in another state may be sent by or on behalf of the obligee,
9 or by the support enforcement agency, to the person ~~or entity~~ defined as the obligor's employer
10 under section 14-09-09.10 without first filing a petition or comparable pleading or registering the
11 order with a tribunal of this state.

12 **SECTION 36. AMENDMENT.** Section 14-12.2-33.1 of the North Dakota Century Code
13 is amended and reenacted as follows:

14 **14-12.2-33.1. (502) Employer's compliance with income-withholding order of**
15 **another state.**

- 16 1. Upon receipt of an income-withholding order, the obligor's employer shall
17 immediately provide a copy of the order to the obligor.
- 18 2. The employer shall treat an income-withholding order issued in another state which
19 appears regular on its face as if it had been issued by a tribunal of this state.
- 20 3. Except as otherwise provided by subsection 4 and section 14-12.2-33.2, the
21 employer shall withhold and distribute the funds as directed in the withholding
22 order by complying with the terms of the order which specify:
 - 23 a. The duration and amount of periodic payments of current child support, stated
24 as a sum certain;
 - 25 b. The person ~~or agency~~ designated to receive payments and the address to
26 which the payments are to be forwarded;
 - 27 c. Medical support, whether in the form of periodic cash payment, stated as a
28 sum certain, or ordering the obligor to provide health insurance coverage for
29 the child under a policy available through the obligor's employment;

d. The amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and

e. The amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.

4. An employer shall comply with the law of the state of the obligor's principal place of employment for withholding from income with respect to:

a. The employer's fee for processing an income-withholding order;

b. The maximum amount permitted to be withheld from the obligor's income; and

c. The times within which the employer must implement the withholding order and forward the child support payment.

SECTION 37. AMENDMENT. Section 14-12.2-33.2 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-33.2. (503) ~~Compliance~~ Employer's compliance with multiple two or more income-withholding orders. If an obligor's employer receives ~~multiple~~ two or more income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the ~~multiple~~ orders if the employer complies with the law of the state of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for ~~multiple~~ two or more child support obligees.

SECTION 38. AMENDMENT. Section 14-12.2-33.3 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-33.3. (504) Immunity from civil liability. An employer ~~who~~ that complies with an income-withholding order issued in another state in accordance with this chapter is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

SECTION 39. AMENDMENT. Section 14-12.2-33.4 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-33.4. (505) Penalties for noncompliance. An employer ~~who~~ that willfully fails to comply with an income-withholding order issued by another state and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this state.

1 **SECTION 40. AMENDMENT.** Section 14-12.2-33.5 of the North Dakota Century Code
2 is amended and reenacted as follows:

3 **14-12.2-33.5. (506) Contest by obligor.**

- 4 1. An obligor may contest the validity or enforcement of an income-withholding order
5 issued in another state and received directly by an employer in this state by
6 registering the order in a tribunal of this state and filing a contest to that order as
7 provided in sections 14-12.2-35 through 14-12.2-46.4, or otherwise contesting the
8 order in the same manner as if the order had been issued by a tribunal of this
9 state. ~~Section 14-12.2-38 applies to the contest.~~
- 10 2. The obligor shall give notice of the contest to:
- 11 a. A support enforcement agency providing services to the obligee;
- 12 b. Each employer that has directly received an income-withholding order relating
13 to the obligor; and
- 14 c. The person ~~or agency~~ designated to receive payments in the
15 income-withholding order or if no person ~~or agency~~ is designated, to the
16 obligee.

17 **SECTION 41. AMENDMENT.** Section 14-12.2-34 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **14-12.2-34. (507) Administrative enforcement of orders.**

- 20 1. A party or support enforcement agency seeking to enforce a support order or an
21 income-withholding order, or both, issued ~~by a tribunal of~~ in another state or a
22 foreign support order may send the documents required for registering the order to
23 a support enforcement agency of this state.
- 24 2. Upon receipt of the documents, the support enforcement agency, without initially
25 seeking to register the order, shall consider and, if appropriate, use any
26 administrative procedure authorized by the law of this state to enforce a support
27 order or an income-withholding order, or both. If the obligor does not contest
28 administrative enforcement, the order need not be registered. If the obligor
29 contests the validity or administrative enforcement of the order, the support
30 enforcement agency shall register the order pursuant to this chapter.

1 **SECTION 42. AMENDMENT.** Section 14-12.2-35 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **14-12.2-35. (601) Registration of order for enforcement.** A support order or an
4 income-withholding order issued ~~by a tribunal of~~ in another state or a foreign support order may
5 be registered in this state for enforcement.

6 **SECTION 43. AMENDMENT.** Section 14-12.2-36 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **14-12.2-36. (602) Procedure to register order for enforcement.**

- 9 1. A Subject to section 14-12.2-47.6, a support order or income-withholding order of
10 another state or a foreign support order may be registered in this state by sending
11 the following ~~documents and information~~ records to the appropriate tribunal in this
12 state:
- 13 a. A letter of transmittal to the tribunal requesting registration and enforcement;
 - 14 b. Two copies, including one certified copy, of ~~all orders~~ the order to be
15 registered, including any modification of ~~an~~ the order;
 - 16 c. A sworn statement by the ~~party seeking~~ person requesting registration or a
17 certified statement by the custodian of the records showing the amount of any
18 arrearage;
 - 19 d. The name of the obligor and, if known:
 - 20 (1) The obligor's address and social security number;
 - 21 (2) The name and address of the obligor's employer and any other source
22 of income of the obligor; and
 - 23 (3) A description and the location of property of the obligor in this state not
24 exempt from execution; and
 - 25 e. ~~The~~ Except as otherwise provided in section 14-12.2-24, name and address
26 of the obligee and, if applicable, the ~~agency or~~ person to whom support
27 payments are to be remitted.
- 28 2. On receipt of a request for registration, the registering tribunal shall cause the
29 order to be filed as ~~a foreign judgment~~ an order of another state or foreign country,
30 together with one copy of the documents and information, regardless of their form.

3. A petition or comparable pleading seeking a remedy that must be affirmatively sought under other law of this state may be filed at the same time as the request for registration or later. The pleading must specify the grounds for the remedy sought.

4. If two or more orders are in effect, the person requesting registration shall:

a. Furnish to the tribunal a copy of every support order asserted to be in effect in addition to the documents specified in this section;

b. Specify the order alleged to be the controlling order, if any; and

c. Specify the amount of consolidated arrears, if any.

5. A request for a determination of which is the controlling order may be filed separately or with a request for registration and enforcement or for registration and modification. The person requesting registration shall give notice of the requests to each party whose rights may be affected by the determination.

SECTION 44. AMENDMENT. Section 14-12.2-37 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-37. (603) Effect of registration for enforcement.

1. 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.

2. A registered order issued in another state or 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.

3. Except as otherwise provided in this chapter, a tribunal of this state shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

SECTION 45. AMENDMENT. Section 14-12.2-38 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-38. (604) Choice of law.

1. ~~The~~ Except as otherwise provided in subsection 4, the law of the issuing state or foreign country governs the

- 1 a. ~~The~~ The nature, extent, amount, and duration of current payments ~~and other~~
2 ~~obligations of support and the~~ under a registered support order;
- 3 b. The computation and payment of arrearages and accrual of interest on the
4 arrearages under the support order; and
- 5 c. The existence and satisfaction of other obligations under the support order.
- 6 2. In a proceeding for arrearages under a registered support order, the statute of
7 limitation ~~under the laws~~ of this state, or of the issuing state or foreign country,
8 whichever is longer, applies.
- 9 3. A responding tribunal of this state shall apply the procedures and remedies of this
10 state to enforce current support and collect arrears and interest due on a support
11 order of another state or foreign country registered in this state.
- 12 4. After a tribunal of this or another state determines which is the controlling order
13 and issues an order consolidating arrears, if any, a tribunal of this state shall
14 prospectively apply the law of the state or foreign country issuing the controlling
15 order, including its law on interest on arrears, on current and future support, and on
16 consolidated arrears.

17 **SECTION 46. AMENDMENT.** Section 14-12.2-39 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **14-12.2-39. (605) Notice of registration of order.**

- 20 1. When a support order or income-withholding order issued in another state or a
21 foreign support order is registered, the registering tribunal of this state shall notify
22 the nonregistering party. The notice must be accompanied by a copy of the
23 registered order and the documents and relevant information accompanying the
24 order.
- 25 2. ~~The~~ A notice must inform the nonregistering party:
 - 26 a. That a registered order is enforceable as of the date of registration in the
27 same manner as an order issued by a tribunal of this state;
 - 28 b. That a hearing to contest the validity or enforcement of the registered order
29 must be requested within twenty days after notice unless the registered order
30 is subject to section 14-12.2-47.7;

1 c. That failure to contest the validity or enforcement of the registered order in a
2 timely manner will result in confirmation of the order and enforcement of the
3 order and the alleged arrearages ~~and precludes further contest of that order~~
4 ~~with respect to any matter that could have been asserted~~; and

5 d. Of the amount of any alleged arrearages.

6 3. If the registering party asserts that two or more orders are in effect, a notice must
7 also:

8 a. Identify the two or more orders and the order alleged by the registering party
9 to be the controlling order and the consolidated arrears, if any;

10 b. Notify the nonregistering party of the right to a determination of which is the
11 controlling order;

12 c. State that the procedures provided in subsection 2 apply to the determination
13 of which is the controlling order; and

14 d. State that failure to contest the validity or enforcement of the order alleged to
15 be the controlling order in a timely manner may result in confirmation that the
16 order is the controlling order.

17 4. Upon registration of an income-withholding order for enforcement, the support
18 enforcement agency or the registering tribunal shall notify the obligor's employer
19 pursuant to the income-withholding requirements of chapter 14-09.

20 **SECTION 47. AMENDMENT.** Section 14-12.2-40 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **14-12.2-40. (606) Procedure to contest validity or enforcement of registered order.**

23 1. A nonregistering party seeking to contest the validity or enforcement of a registered
24 order in this state shall request a hearing ~~within twenty days after notice of the~~
25 ~~registration~~ in accordance with the notice provided in section 14-12.2-39. The
26 nonregistering party may seek to vacate the registration, to assert any defense to
27 an allegation of noncompliance with the registered order, or to contest the
28 remedies being sought or the amount of any alleged arrearages pursuant to
29 section 14-12.2-41.

30 2. If the nonregistering party fails to contest the validity or enforcement of the
31 registered order in a timely manner, the order is confirmed by operation of law.

3. If a nonregistering party requests a hearing to contest the validity or enforcement of the registered order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

SECTION 48. AMENDMENT. Section 14-12.2-41 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-41. (607) Contest of registration or enforcement.

1. A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:
 - a. The issuing tribunal lacked personal jurisdiction over the contesting party;
 - b. The order was obtained by fraud;
 - c. The order has been vacated, suspended, or modified by a later order;
 - d. The issuing tribunal has stayed the order pending appeal;
 - e. There is a defense under the law of this state to the remedy sought;
 - f. Full or partial payment has been made; ~~or~~
 - g. The statute of limitation under section 14-12.2-38 precludes enforcement of some or all of the alleged arrearages; or
 - h. The alleged controlling order is not the controlling order.
2. If a party presents evidence establishing a full or partial defense under subsection 1, a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this state.
3. If the contesting party does not establish a defense under subsection 1 to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

SECTION 49. AMENDMENT. Section 14-12.2-43 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-43. (609) Procedure to register child support order of another state for modification. A party or support enforcement agency seeking to modify, or to modify and enforce, a child support order issued in another state shall register that order in this state in the

same manner provided in sections 14-12.2-35 through ~~14-12.2-38 of this chapter~~ 14-12.2-42 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration or later. The pleading must specify the grounds for modification.

SECTION 50. AMENDMENT. Section 14-12.2-44 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-44. (610) Effect of registration for modification. A tribunal of this state may enforce a child support order of another state registered for purposes of modification, in the same manner as if the order had been issued by a tribunal of this state, but the registered order may be modified only if the requirements of section 14-12.2-45 or 14-12.2-46.1 have been met.

SECTION 51. AMENDMENT. Section 14-12.2-45 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-45. (611) Modification of child support order of another state.

1. ~~After~~ If section 14-12.2-46.1 does not apply, upon petition a tribunal of this state may modify a child support order issued in another state ~~has been~~ which is registered in this state, ~~the responding tribunal of this state may modify that order only if section 14-12.2-46.1 does not apply and if, after notice and hearing it, the tribunal finds that:~~

a. The following requirements are met:

- (1) ~~The~~ Neither the child, nor the individual obligee who is an individual, and nor the obligor do not reside resides in the issuing state;
- (2) A petitioner who is a nonresident of this state seeks modification;
- (3) The respondent is subject to the personal jurisdiction of the tribunal of this state; or

b. ~~The~~ This state is the residence of the child, or a party who is an individual; is subject to the personal jurisdiction of the tribunal of this state and all of the parties who are individuals have filed ~~written~~ consents in a record in the issuing tribunal for a tribunal of this state to modify the support order and assume continuing, exclusive jurisdiction ~~over the order. However, if the issuing state is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under the Uniform Interstate Family Support Act, the consent otherwise required of an individual~~

~~residing in this state is not required for the tribunal to assume jurisdiction to
modify the child support order.~~

2. Modification of a registered child support order is subject to the same requirements, procedures, and defenses that apply to the modification of an order issued by a tribunal of this state and the order may be enforced and satisfied in the same manner.
3. A tribunal of this state may not modify 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. If two or more tribunals have issued child support orders for the same obligor and same child, the order that controls and must be so recognized under section 14-12.2-10 establishes the aspects of the support order which are nonmodifiable.
4. 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. 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.
5. On issuance of an order by a tribunal of this state modifying a child support order issued in another state, a the tribunal of this state becomes the tribunal having continuing, exclusive jurisdiction.
6. Without regard to the restrictions on modification of a child support order stated in subsection 2 of section 14-12.2-04 and this section, a tribunal of this state retains jurisdiction to modify an order issued by a tribunal of this state if:
 - a. One party resides in another state; and
 - b. The other party resides outside the United States.

SECTION 52. AMENDMENT. Section 14-12.2-46 of the North Dakota Century Code is amended and reenacted as follows:

14-12.2-46. (612) Recognition of order modified in another state. ~~A~~ If a child support order issued by a tribunal of this state shall recognize a modification of its earlier child support order is modified by a tribunal of another state which assumed jurisdiction pursuant to

the Uniform Interstate Family Support Act ~~or a law substantially similar to this chapter and,~~
~~upon request, except as otherwise provided in this chapter, shall, a tribunal of this state:~~

1. ~~Enforce the~~ May enforce its order that was modified only as to amounts arrears
and interest accruing before the modification;
2. ~~Enforce only nonmodifiable aspects of that order;~~
3. ~~Provide other~~ May provide appropriate relief ~~only~~ for violations of ~~that~~ its order
which occurred before the effective date of the modification; and
4. ~~3.~~ Recognize Shall recognize the modifying order of the other state, upon registration,
for the purpose of enforcement.

SECTION 53. AMENDMENT. Section 14-12.2-46.1 of the North Dakota Century Code
is amended and reenacted as follows:

**14-12.2-46.1. (613) Jurisdiction to modify child support order of another state
when individual parties reside in this state.**

1. If all of the parties who are individuals reside in this state and the child does not
reside in the issuing state, a tribunal of this state has jurisdiction to enforce and to
modify the issuing state's child support order in a proceeding to register that order.
2. A tribunal of this state exercising jurisdiction under this section shall apply the
provisions of sections 14-12.2-01 through 14-12.2-12, sections 14-12.2-35 through
~~14-12.2-46.2~~ 14-12.2-46.4, and the procedural and substantive law of this state to
the proceeding for enforcement or modification. Sections 14-12.2-13 through
14-12.2-34 and sections 14-12.2-47, 14-12.2-48, and 14-12.2-49 do not apply.

SECTION 54. Section 14-12.2-46.3 of the North Dakota Century Code is created and
enacted as follows:

**14-12.2-46.3. (615) Jurisdiction to modify child support order of foreign country
or political subdivision.**

1. Except as otherwise provided in section 14-12.2-47.11, if a foreign country lacks or
refuses to exercise jurisdiction to modify its child support order pursuant to its laws,
a tribunal of this state may assume jurisdiction to modify the child support order
and bind all individuals subject to the personal jurisdiction of the tribunal whether or
not the consent to modification of a child support order otherwise required of the

individual pursuant to section 14-12.2-45 has been given or whether the individual seeking modification is a resident of this state or of the foreign country.

2. An order issued by a tribunal of this state modifying a foreign child support order pursuant to this section is the controlling order.

SECTION 55. Section 14-12.2-46.4 of the North Dakota Century Code is created and enacted as follows:

14-12.2-46.4. (616) Procedure to register child support order of foreign country for modification. A party or support enforcement agency seeking to modify, or to modify and enforce, a foreign child support order not subject to the convention may register that order in this state as provided in sections 14-12.2-35 through 14-12.2-42 if the order has not been registered. A petition for modification may be filed at the same time as a request for registration, or at another time. The petition must specify the grounds for modification.

SECTION 56. Section 14-12.2-47.1 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.1. (701) Definitions. In sections 14-12.2-47.1 through 14-12.2-47.13:

1. "Application" means a request under the convention by an obligee, obligor, or on behalf of a child, made through a central authority for assistance from another central authority.
2. "Central authority" means the entity designated by a country to perform the functions specified in the convention.
3. "Convention support order" means an order of a tribunal of a foreign country in which the convention is in force with respect to the United States.
4. "Direct request" means a petition filed by an individual in a tribunal of this state in a proceeding involving an obligee, obligor, or child residing outside the United States.
5. "Foreign central authority" means the entity designated by a foreign country in which the convention is in force with respect to the United States to perform the functions specified in the convention.
6. "Foreign support agreement" means an agreement for support in a record, also known as a maintenance arrangement in the convention, that:
 - a. Is enforceable as a support order in the country of origin;

b. Has been formally drawn up or registered or has been authenticated by, or concluded, registered, or filed with a foreign tribunal; and

c. May be reviewed and modified by a foreign tribunal.

7. "United States central authority" means the secretary of the United States department of health and human services.

SECTION 57. Section 14-12.2-47.2 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.2. (702) Applicability. Sections 14-12.2-47.1 through 14-12.2-47.13 apply only to a support proceeding involving a foreign country in which the convention is in force with respect to the United States. In such a proceeding, if a provision of sections 14-12.2-47.1 through 14-12.2-47.13 is inconsistent with a provision of sections 14-12.2-01 through 14-12.2-46.4, sections 14-12.2-47.1 through 14-12.2-47.13 control.

SECTION 58. Section 14-12.2-47.3 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.3. (703) Relationship of department of human services to United States central authority. The department of human services of this state is recognized as the agency designated by the United States central authority to perform specific functions under the convention.

SECTION 59. Section 14-12.2-47.4 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.4. (704) Initiation by department of human services of support proceeding subject to convention.

1. In a proceeding subject to the convention, the department of human services of this state shall:

a. Transmit and receive applications; and

b. Initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.

2. The following support proceedings are available to an obligee under the convention:

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

b. Enforcement of a support order issued or recognized in this state;

- 1 c. Establishment of a support order if there is no existing order, including, where
- 2 necessary, determination of parentage;
- 3 d. Establishment of a support order if recognition of a foreign support order is
- 4 refused under subsection 2, 4, or 9 of section 14-12.2-47.8;
- 5 e. Modification of a support order of a tribunal of this state; and
- 6 f. Modification of a support order of a tribunal of another state or foreign country.
- 7 3. The following support proceedings are available under the convention to an obligor
- 8 against whom there is an existing support order:
- 9 a. Recognition of an order suspending or limiting enforcement of an existing
- 10 support order of a tribunal of this state;
- 11 b. Modification of a support order of a tribunal of this state; and
- 12 c. Modification of a support order of a tribunal of another state or foreign country.
- 13 4. A tribunal of this state may not require security, bond, or deposit, however
- 14 described, to guarantee the payment of costs and expenses in proceedings under
- 15 the convention.

16 **SECTION 60.** Section 14-12.2-47.5 of the North Dakota Century Code is created and
17 enacted as follows:

18 **14-12.2-47.5. (705) Direct request.**

- 19 1. A petitioner may file a direct request in a tribunal of this state seeking the
- 20 establishment or modification of a support order or determination of parentage. In
- 21 such a proceeding, the law of this state applies.
- 22 2. A petitioner may file a direct request in a tribunal of this state seeking the
- 23 recognition and enforcement of a support order or support agreement. In such a
- 24 proceeding, the provisions of sections 14-12.2-47.6 through 14-12.2-47.13 apply.
- 25 3. In a direct request for recognition and enforcement of a convention support order
- 26 or foreign support agreement:
- 27 a. No security, bond, or deposit shall be required to guarantee the payment of
- 28 costs and expenses related to the proceedings; and
- 29 b. The obligee or obligor, who in the issuing country has benefited from free
- 30 legal assistance, shall be entitled to benefit, at least to the same extent, from

1 any free legal assistance provided for by the law of this state under the same
2 circumstances.

3 4. An individual filing directly with a tribunal will not receive assistance from the
4 department of human services.

5 5. Nothing in sections 14-12.2-47.1 through 14-12.2-47.13 prevents the application of
6 laws of this state that provide simplified, more expeditious rules regarding a direct
7 request for recognition and enforcement of a foreign support order or support
8 agreement.

9 **SECTION 61.** Section 14-12.2-47.6 of the North Dakota Century Code is created and
10 enacted as follows:

11 **14-12.2-47.6. (706) Registration of convention support order.**

12 1. Except as otherwise provided in sections 14-12.2-47.1 through 14-12.2-47.13, a
13 party who is an individual or a support enforcement agency seeking recognition of
14 a convention support order shall register the order in this state as provided in
15 sections 14-12.2-35 through 14-12.2-46.4.

16 2. Notwithstanding section 14-12.2-23 and subsection 1 of section 14-12.2-36, a
17 request for registration of a convention support order must be accompanied by:

- 18 a. A complete text of the support order, or an abstract or extract of the support
19 order drawn up by the issuing foreign tribunal, which may be in the form
20 recommended by the Hague conference on private international law;
21 b. A record stating that the support order is enforceable in the issuing country;
22 c. If the respondent did not appear and was not represented in the proceedings
23 in the issuing country, a record attesting, as appropriate, either that the
24 respondent had proper notice of the proceedings and an opportunity to be
25 heard or that the respondent had proper notice of the support order and an
26 opportunity to be heard in a challenge or appeal on fact or law before a
27 tribunal;
28 d. A record showing the amount of arrears, if any, and the date the amount was
29 calculated;

- e. 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
- f. If necessary, a record showing the extent to which the applicant received free legal assistance in the issuing country.
3. A request for registration of a convention support order may seek recognition and partial enforcement of the order.
4. A tribunal of this state may vacate the registration of a convention support order on its own motion, without the filing of a contest under section 14-12.2-47.7 only if the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.
5. The tribunal shall promptly notify the parties of the registration or the order vacating the registration of a convention support order.

SECTION 62. Section 14-12.2-47.7 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.7. (707) Contest of registered convention support order.

1. Except as otherwise provided in sections 14-12.2-47.1 through 14-12.2-47.13, sections 14-12.2-39 through 14-12.2-42 apply to a contest of a registered convention support order.
2. A party contesting a registered convention support order must file a contest within thirty days after notice of the registration unless the contesting party does not reside in the United States, in which case the contest must be filed within sixty days after notice.
3. If the nonregistering party fails to contest the registered convention support order in a timely manner, the order is enforceable by operation of law.
4. A contest of a registered convention support order may be based only on grounds set forth in section 14-12.2-47.8, and the contesting party bears the burden of proof.
5. In a contest of a registered convention support order, a tribunal of this state:
 - a. Is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and

b. May not review the merits of the support order.

6. A tribunal of this state deciding a contest of a registered convention support order shall promptly notify the parties of its decision.

7. An appeal, if any, does not stay the enforcement of a convention support order unless there are exceptional circumstances.

SECTION 63. Section 14-12.2-47.8 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.8. (708) Refusal of recognition and enforcement of registered convention support order. A tribunal of this state may refuse recognition and enforcement of a registered convention support order only on the following grounds:

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 14-12.2-04;

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 14-12.2-47.6 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 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 when the law of that country:

a. Provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

b. 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 14-12.2-47.11.

SECTION 64. Section 14-12.2-47.9 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.9. (709) Partial enforcement - New support order.

1. If a tribunal of this state may not recognize and enforce the whole of a convention support order, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a convention support order.

2. If a tribunal of this state may not recognize a convention support order under subsection 2, 4, or 9 of section 14-12.2-47.8:

a. The tribunal may not dismiss proceeding without allowing a reasonable time for a party to request the establishment of a new support order;

b. The department of human services shall take all appropriate measures to request a child support order for the obligee if the application for recognition and enforcement was received under section 14-12.2-47.4.

SECTION 65. Section 14-12.2-47.10 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.10. (710) Foreign support agreement.

1. Except as provided in subsections 3 and 4, a tribunal of this state shall recognize and enforce a foreign support agreement registered in this state.

2. An application or direct request for recognition and enforcement of a foreign support agreement shall be accompanied by:

a. A complete text of the foreign support agreement; and

b. A record stating that the foreign support agreement is enforceable as a decision in the issuing country.

3. A tribunal of this state may 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.

4. In a contest of a foreign support agreement, a tribunal of this state may refuse recognition and enforcement of the agreement if it finds:

a. Recognition and enforcement of the agreement is manifestly incompatible with public policy;

b. The agreement was obtained by fraud or falsification;

c. The agreement is incompatible with a support order involving the same parties and having the same purpose, either in this state, another state, or a foreign country if the support order is entitled to recognition in this state; or

d. The record submitted under subsection 2 lacks authenticity or integrity.

5. A proceeding for recognition and enforcement of a foreign support agreement shall be suspended during the pendency of a challenge to the agreement before a tribunal of another state or foreign country.

SECTION 66. Section 14-12.2-47.11 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.11. (711) Modification of child support order subject to convention.

1. A tribunal of this state may not modify a child support order subject to the convention if the obligee remains a resident of the foreign country where the support order was issued unless:

a. 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

b. The foreign tribunal lacks or refuses to exercise jurisdiction to modify its support order or issue a new support order.

2. If a tribunal of this state may not modify the child support order subject to the convention because the order may not be recognized in this state, subdivision a of subsection 2 of section 14-12.2-47.9 applies.

SECTION 67. Section 14-12.2-47.12 of the North Dakota Century Code is created and enacted as follows:

14-12.2-47.12. (712) Personal information - Limit on use. Personal information gathered or transmitted under sections 14-12.2-47.1 through 14-12.2-47.13 may be used only for the purposes for which it was gathered or transmitted.

SECTION 68. Section 14-12.2-47.13 of the North Dakota Century Code is created and enacted as follows:

1 **14-12.2-47.13. (713) English translation required.** A record filed with a tribunal of
2 this state under sections 14-12.2-47.1 through 14-12.2-47.13 must be in the original language
3 and, if necessary, must be accompanied by an English translation.

4 **SECTION 69. AMENDMENT.** Section 14-12.2-48 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **14-12.2-48. (801) Grounds for rendition.**

- 7 1. For purposes of sections 14-12.2-48 and 14-12.2-49, "governor" includes an
8 individual performing the functions of governor or the executive authority of a state
9 covered by this chapter.
- 10 2. The governor of this state may:
 - 11 a. Demand that the governor of another state surrender an individual found in
12 the other state who is charged criminally in this state with having failed to
13 provide for the support of an obligee; or
 - 14 b. On the demand ~~by~~ of the governor of another state, surrender an individual
15 found in this state who is charged criminally in the other state with having
16 failed to provide for the support of an obligee.
- 17 3. A provision for extradition of individuals not inconsistent with this chapter applies to
18 the demand even if the individual whose surrender is demanded was not in the
19 demanding state when the crime was allegedly committed and has not fled
20 therefrom.

21 **SECTION 70. AMENDMENT.** Section 14-12.2-49 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **14-12.2-49. (802) Conditions of rendition.**

- 24 1. Before making a demand that the governor of another state surrender an individual
25 charged criminally in this state with having failed to provide for the support of an
26 obligee, the governor of this state may require a prosecutor of this state to
27 demonstrate that at least sixty days previously the obligee had initiated
28 proceedings for support pursuant to this chapter or that the proceeding would be of
29 no avail.
- 30 2. If, under this chapter or a law substantially similar to this chapter, the ~~Uniform~~
31 ~~Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal~~

~~Enforcement of Support Act~~, the governor of another state makes a demand that the governor of this state surrender an individual charged criminally in that state with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.

3. If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the petitioner prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

SECTION 71. REPEAL. Section 14-12.2-47 of the North Dakota Century Code is repealed.

SECTION 72. APPLICATION. This Act applies to a proceeding commenced on or after the effective date to establish a support order or determine parentage or to register, recognize, enforce, or modify a prior order or agreement, whether issued or entered into before, on, or after the effective date.

SECTION 73. CONTINGENT EFFECTIVE DATE. This Act becomes effective on the date the department of human services certifies to the legislative council that the Hague convention on the international recovery of child support and other forms of family maintenance is ratified and that the United States deposited its instrument of ratification.