



Wednesday, April 1, 2009

Wednesday: PLENARY



**Time: 8:30 a.m. - 9:45 a.m.
Location: Oleander A & B**

PLENARY:

IF YOU CAN'T PAY A DIME, DON'T DO THE CRIME: *THE TRIAL* (CLE)

Both entertaining and educational, this trial focuses on German beauty Hilda and her U.S. Olympic snowboarding dude Roger. It is 2010 and Roger cries foul when Hilda seeks enforcement of the \$1600/month German support order under the new Hague Maintenance Convention. In the alternative, he wants a reduction. He's broke and he claims the days of highflying-cash cowing snowboarding are over. Not to mention he's certain he should not have to pay support during the three months he was in the Nevada pokey for smacking a People Magazine reporter.

At this plenary session, experienced litigators will argue the validity and enforceability of the German order, choice of law issues, and the impact of incarceration on the accrual of arrears and modification. Conference handouts will include critical sections of UIFSA 2008 and the Hague Convention.

Session Objectives:

- Explain provisions of the (soon to be enacted) Hague Maintenance Convention and UIFSA 2008 through the use of a mock trial.
- Inform child support professionals of the potential issues, arguments, and defenses surrounding jurisdiction, enforceability, and choice of law rules in international cases.
- Explore various state laws regarding the impact of incarceration on the accrual of arrears and modification.

CAST

Nevada Judge -	The Honorable Noel Johnson, the District of Columbia (<i>invited</i>)
Hilda, custodial parent from Germany -	Chrissy Brogdon Dingeldine, SC
Roger, support obligor -	Brian Neal, MO
IV-D Attorney -	Christin Semprebon, VT
Attorney for Roger -	Gordon Bailey, AL
Bailiff -	Rob Velcoff, NY

If You Can't Pay a Dime, Don't Do the Crime - The Trial

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Roger Weed, support obligor – Brian Neal, MO

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Relevant Legal Information

Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance (concluded Nov. 23, 2007)

CHAPTER V – RECOGNITION AND ENFORCEMENT

Article 19 Scope of the Chapter

1. This Chapter shall apply to a decision rendered by a judicial or administrative authority in respect of a maintenance obligation. The term "decision" also includes a settlement or agreement concluded before or approved by such an authority. A decision may include automatic adjustment by indexation and a requirement to pay arrears, retroactive maintenance or interest and a determination of costs or expenses.
2. If a decision does not relate solely to a maintenance obligation, the effect of this Chapter is limited to the parts of the decision which concern maintenance obligations.
3. For the purpose of paragraph 1, "administrative authority" means a public body whose decisions, under the law of the State where it is established –
 - a) may be made the subject of an appeal to or review by a judicial authority; and
 - b) have a similar force and effect to a decision of a judicial authority on the same matter.
4. This Chapter also applies to maintenance arrangements in accordance with Article 30.
5. The provisions of this Chapter shall apply to a request for recognition and enforcement made directly to a competent authority of the State addressed in accordance with Article 37.

Article 20 Bases for recognition and enforcement

1. A decision made in one Contracting State ("the State of origin") shall be recognised and enforced in other Contracting States if –
 - a) the respondent was habitually resident in the State of origin at the time proceedings were instituted;
 - b) the respondent has submitted to the jurisdiction either expressly or by defending on the merits of the case without objecting to the jurisdiction at the first available opportunity;
 - c) the creditor was habitually resident in the State of origin at the time proceedings were instituted;
 - d) the child for whom maintenance was ordered was habitually resident in the State of origin at the time proceedings were instituted, provided that the respondent has lived with the child in that State or has resided in that State and provided support for the child there;
 - e) except in disputes relating to maintenance obligations in respect of children, there has been agreement to the jurisdiction in writing by the parties; or
 - f) the decision was made by an authority exercising jurisdiction on a matter of personal status or parental responsibility, unless that jurisdiction was based solely on the nationality of one of the parties.
2. A Contracting State may make a reservation, in accordance with Article 62, in respect of paragraph 1 c), e) or f).
3. A Contracting State making a reservation under paragraph 2 shall recognise and enforce a decision if its law would in similar factual circumstances confer or would have conferred jurisdiction on its authorities to make such a decision.
4. A Contracting State shall, if recognition of a decision is not possible as a result of a reservation under paragraph 2, and if the debtor is habitually resident in that State, take all appropriate measures to establish a decision for the benefit of the creditor. The preceding sentence shall not apply to direct requests for recognition and enforcement under Article 19(5) or to claims for support referred to in Article 2(1) b).
5. A decision in favour of a child under the age of 18 years which cannot be recognised by virtue only of a reservation in respect of paragraph 1 c), e) or f) shall be accepted as establishing the eligibility of that child for maintenance in the State addressed.
6. A decision shall be recognised only if it has effect in the State of origin, and shall be enforced only if it is enforceable in the State of origin.

Article 21 Severability and partial recognition and enforcement

1. If the State addressed is unable to recognise or enforce the whole of the decision, it shall recognise or enforce any severable part of the decision which can be so recognised or enforced.
2. Partial recognition or enforcement of a decision can always be applied for.

Article 22 Grounds for refusing recognition and enforcement

Recognition and enforcement of a decision may be refused if –

- a) recognition and enforcement of the decision is manifestly incompatible with the public policy ("ordre public") of the State addressed;
- b) the decision was obtained by fraud in connection with a matter of procedure;
- c) proceedings between the same parties and having the same purpose are pending before an authority of the State addressed and those proceedings were the first to be instituted;
- d) the decision is incompatible with a decision rendered between the same parties and having the same purpose, either in the State addressed or in another State, provided that this latter decision fulfils the conditions necessary for its recognition and enforcement in the State addressed;
- e) in a case where the respondent has neither appeared nor was represented in proceedings in the State of origin –
 - i) when the law of the State of origin provides for notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or
 - ii) when the law of the State of origin does not provide for notice of the proceedings, the respondent did not have proper notice of the decision and an opportunity to challenge or appeal it on fact and law; or
- f) the decision was made in violation of Article 18.

Article 23 Procedure on an application for recognition and enforcement

1. Subject to the provisions of the Convention, the procedures for recognition and enforcement shall be governed by the law of the State addressed.
2. Where an application for recognition and enforcement of a decision has been made through Central Authorities in accordance with Chapter III, the requested Central Authority shall promptly either –
 - a) refer the application to the competent authority which shall without delay declare the decision enforceable or register the decision for enforcement; or
 - b) if it is the competent authority take such steps itself.
3. Where the request is made directly to a competent authority in the State addressed in accordance with Article 19(5), that authority shall without delay declare the decision enforceable or register the decision for enforcement.
4. A declaration or registration may be refused only on the ground set out in Article 22 a). At this stage neither the applicant nor the respondent is entitled to make any submissions.
5. The applicant and the respondent shall be promptly notified of the declaration or registration, made under paragraphs 2 and 3, or the refusal thereof in accordance with paragraph 4, and may bring a challenge or appeal on fact and on a point of law.
6. A challenge or an appeal is to be lodged within 30 days of notification under paragraph 5. If the contesting party is not resident in the Contracting State in which the declaration or registration was made or refused, the challenge or appeal shall be lodged within 60 days of notification.
7. A challenge or appeal may be founded only on the following –
 - a) the grounds for refusing recognition and enforcement set out in Article 22;
 - b) the bases for recognition and enforcement under Article 20;
 - c) the authenticity or integrity of any document transmitted in accordance with Article 25(1) a), b) or d) or (3) b).
8. A challenge or an appeal by a respondent may also be founded on the fulfilment of the debt to the extent that the recognition and enforcement relates to payments that fell due in the past.
9. The applicant and the respondent shall be promptly notified of the decision following the challenge or the appeal.
10. A further appeal, if permitted by the law of the State addressed, shall not have the effect of staying the enforcement of the decision unless there are exceptional circumstances.
11. In taking any decision on recognition and enforcement, including any appeal, the competent authority shall act expeditiously.

Article 25 Documents

1. An application for recognition and enforcement under Article 23 or Article 24 shall be accompanied by the following –

- a) a complete text of the decision;
- b) a document stating that the decision is enforceable in the State of origin and, in the case of a decision by an administrative authority, a document stating that the requirements of Article 19(3) are met unless that State has specified in accordance with Article 57 that decisions of its administrative authorities always meet those requirements;
- c) if the respondent did not appear and was not represented in the proceedings in the State of origin, a document or documents attesting, as appropriate, either that the respondent had proper notice of the proceedings and an opportunity to be heard, or that the respondent had proper notice of the decision and the opportunity to challenge or appeal it on fact and law;
- d) where necessary, a document showing the amount of any arrears and the date such amount was calculated;
- e) where necessary, in the case of a decision providing for automatic adjustment by indexation, a document providing the information necessary to make the appropriate calculations;
- f) where necessary, documentation showing the extent to which the applicant received free legal assistance in the State of origin.

2. Upon a challenge or appeal under Article 23(7) c) or upon request by the competent authority in the State addressed, a complete copy of the document concerned, certified by the competent authority in the State of origin, shall be provided promptly –

- a) by the Central Authority of the requesting State, where the application has been made in accordance with Chapter III;
- b) by the applicant, where the request has been made directly to a competent authority of the State addressed.

3. A Contracting State may specify in accordance with Article 57 –

- a) that a complete copy of the decision certified by the competent authority in the State of origin must accompany the application;
- b) circumstances in which it will accept, in lieu of a complete text of the decision, an abstract or extract of the decision drawn up by the competent authority of the State of origin, which may be made in the form recommended and published by the Hague Conference on Private International Law; or
- c) that it does not require a document stating that the requirements of Article 19(3) are met.

Article 26 Procedure on an application for recognition

This Chapter shall apply *mutatis mutandis* to an application for recognition of a decision, save that the requirement of enforceability is replaced by the requirement that the decision has effect in the State of origin.

Article 27 Findings of fact

Any competent authority of the State addressed shall be bound by the findings of fact on which the authority of the State of origin based its jurisdiction.

Article 28 No review of the merits

There shall be no review by any competent authority of the State addressed of the merits of a decision.

Article 29 Physical presence of the child or the applicant not required

The physical presence of the child or the applicant shall not be required in any proceedings in the State addressed under this Chapter.

Relevant Excerpts from UIFSA 2008 (changes to UIFSA 2001 are noted)

ARTICLE 1
GENERAL PROVISIONS

SECTION 101. SHORT TITLE. This ~~{Act}~~ [act] may be cited as the Uniform Interstate Family Support Act.

SECTION 102. DEFINITIONS. In this ~~{Act}~~ [act]:

(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~~ 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.

(5) “Foreign country” means a country, including a political subdivision thereof, other than the United States, that 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 308;

(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 [act]; 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 which is authorized to establish, enforce, or modify support orders or to determine parentage of a child. The term includes a competent authority under the Convention.

~~(8)~~ (11) “Initiating tribunal” means the ~~authorized~~ tribunal of a ~~State~~ state or foreign country in an initiating State from which a [petition] or comparable pleading is forwarded or in which a [petition] or comparable pleading is filed for forwarding to another state or foreign country.

(12) “Issuing foreign country” means the foreign country in which a tribunal issues a support order or a judgment determining parentage of a child.

~~(10)~~ (14) “Issuing tribunal” means the tribunal of a state or foreign country that issues a support order or ~~renders~~ a judgment determining parentage of a child.

~~(12)~~ (16) “Obligee” means:

(A) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order ~~has been issued~~ or a judgment determining parentage of a child has been ~~rendered~~ issued;

(B) a foreign country, State ~~state~~, or political subdivision of a state to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee in place of child support; ~~or~~

(C) an individual seeking a judgment determining parentage of the individual’s child; or

(D) a person that is a creditor in a proceeding under [Article] 7.

~~(13)~~ (17) “Obligor” means an individual, or the estate of a decedent that:

(A) ~~who~~ owes or is alleged to owe a duty of support;

(B) ~~who~~ is alleged but has not been adjudicated to be a parent of a child; ~~or~~

(C) ~~who~~ is liable under a support order; or

(D) is a debtor in a proceeding under [Article] 7.

(18) “Outside this state” means a location in another state or a country other than the United States, whether or not the country is a foreign country.

~~(16)~~ (21) “Register” means to [record; file] in a tribunal of this state a support order or judgment determining parentage of a child issued in another state or a foreign country in the [appropriate location for the recording or filing of foreign judgments generally or foreign support orders specifically].

~~(18)~~ (23) “Responding State state” means a State state in which a ~~proceeding~~ [petition] or comparable pleading for support or to determine parentage of a child is filed or to which a ~~proceeding~~ [petition] or comparable pleading is forwarded for filing from ~~an initiating another State state or a foreign country under this [Act] or a law or procedure substantially similar to this [Act].~~

~~(19)~~ (24) “Responding tribunal” means the authorized tribunal in a responding State state or foreign country.

~~(21)~~ (26) “State” means a State state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession ~~subject to~~ under the jurisdiction of the United States. The term includes: ~~(A) an Indian nation or tribe; and~~

~~(B) a foreign country or political subdivision that:~~
~~(i) has been declared to be a foreign reciprocating country or political subdivision under federal law;~~
~~(ii) has established a reciprocal arrangement for child support with this State as provided in Section 308; or~~
~~(iii) has enacted a law or established procedures for the issuance and enforcement of support orders which are substantially similar to the procedures under this [Act].~~

SECTION 105. APPLICATION OF [ACT] TO RESIDENT OF FOREIGN COUNTRY AND FOREIGN SUPPORT PROCEEDING.

(a) A tribunal of this state shall apply [Articles] 1 through 6 and, as applicable, [Article] 7, to a support proceeding involving:

- (1) a foreign support order;
- (2) a foreign tribunal; or
- (3) an obligee, obligor, or child residing in a foreign country.

(b) 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 [Articles] 1 through 6.

(c) [Article] 7 applies only to a support proceeding under the Convention. In such a proceeding, if a provision of [Article] 7 is inconsistent with [Articles] 1 through 6, [Article] 7 controls.

ARTICLE 2 JURISDICTION

SECTION 201. BASES FOR JURISDICTION OVER NONRESIDENT.

(a) In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of this State state may exercise personal jurisdiction over a nonresident individual [or the individual’s guardian or conservator] if:

- (1) the individual is personally served with [citation, summons, notice] within this State state;
- (2) the individual submits to the jurisdiction of this State 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) the individual resided with the child in this State state;
- (4) the individual resided in this State state and provided prenatal expenses or support for the child;
- (5) the child resides in this State state as a result of the acts or directives of the individual;
- (6) the individual engaged in sexual intercourse in this State state and the child may have been conceived by that act of intercourse;
- (7) [the individual asserted parentage of a child in the [putative father registry] maintained in this State state by the [appropriate agency]; or
- (8) there is any other basis consistent with the constitutions of this State state and the United States for the exercise of personal jurisdiction.

(b) The bases of personal jurisdiction set forth in subsection (a) or in any other law of this State state may not be used to acquire personal jurisdiction for a tribunal of ~~the~~ this State state to modify a child-support order of

another ~~State~~ state unless the requirements of Section 611 ~~or 615~~ are met, or, in the case of a foreign support order, unless the requirements of Section 615 are met.

ARTICLE 3

CIVIL PROVISIONS OF GENERAL APPLICATION

SECTION 301. PROCEEDINGS UNDER [ACT].

(a) Except as otherwise provided in this ~~[Act]~~ [act], this [article] applies to all proceedings under this ~~[Act]~~ [act].

SECTION 305. DUTIES AND POWERS OF RESPONDING TRIBUNAL.

(f) If requested to enforce a support order, arrears, or judgment or modify a support order stated in a foreign currency, a responding tribunal of this ~~State~~ state shall convert the amount stated in the foreign currency to the equivalent amount in dollars under the applicable official or market exchange rate as publicly reported.

SECTION 307. DUTIES OF SUPPORT ENFORCEMENT AGENCY.

(d) A support enforcement agency of this ~~State~~ state that requests registration and enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the amounts stated in the foreign currency into the equivalent amounts in dollars under the applicable official or market exchange rate as publicly reported.

SECTION 316. SPECIAL RULES OF EVIDENCE AND PROCEDURE.

(a) The physical presence of a nonresident party who is an individual in a tribunal of this ~~State~~ state is not required for the establishment, enforcement, or modification of a support order or the rendition of a judgment determining parentage of a child.

(b) An affidavit, a document substantially complying with federally mandated forms, 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 penalty of perjury by a party or witness residing ~~in another~~ outside this State state.

(c) 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.

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

(e) Documentary evidence transmitted from ~~another~~ outside this State state to a tribunal of this ~~State~~ state by telephone, telecopier, or other electronic means that do not provide an original record may not be excluded from evidence on an objection based on the means of transmission.

(f) In a proceeding under this ~~[Act]~~ [act], a tribunal of this ~~State~~ state shall permit a party or witness residing ~~in another~~ outside this State state to be deposed or to testify under penalty of perjury by telephone, audiovisual means, or other electronic means at a designated tribunal or other location ~~in that State~~. A tribunal of this ~~State~~ state shall cooperate with other tribunals ~~of other States~~ in designating an appropriate location for the deposition or testimony.

ARTICLE 7

DETERMINATION OF PARENTAGE

SUPPORT PROCEEDING UNDER CONVENTION

~~SECTION 701. PROCEEDING TO DETERMINE PARENTAGE. A court of this State authorized to determine parentage of a child may serve as a responding tribunal in a proceeding to determine parentage brought under this [Act] or a law or procedure substantially similar to this [Act].~~

SECTION 701. DEFINITIONS. In this [article]:

(1) "Application" means a request under the Convention by an obligee or 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 the United States or a foreign country described in Section 102(5)(D) to perform the functions specified in the Convention.

(3) "Convention support order" means a support order of a tribunal of a foreign country described in Section 102(5)(D).

(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 described in Section 102(5)(D) to perform the functions specified in the Convention.

(6) “Foreign support agreement”:

(A) means an agreement for support in a record that:

(i) is enforceable as a support order in the country of origin;

(ii) has been:

(I) formally drawn up or registered as an authentic instrument by a foreign tribunal; or

and

(iii) may be reviewed and modified by a foreign tribunal; and

(B) includes a maintenance arrangement or authentic instrument under the Convention.

(7) “United States central authority” means the Secretary of the United States Department of Health and Human Services.

SECTION 702. APPLICABILITY. This [article] applies only to a support proceeding under the Convention. In such a proceeding, if a provision of this [article] is inconsistent with [Articles] 1 through 6, this [article] controls.

SECTION 703. RELATIONSHIP OF [GOVERNMENTAL ENTITY] TO UNITED STATES CENTRAL AUTHORITY. The [governmental entity] of this state is recognized as the agency designated by the United States central authority to perform specific functions under the Convention.

SECTION 704. INITIATION BY [GOVERNMENTAL ENTITY] OF SUPPORT PROCEEDING UNDER CONVENTION.

(a) In a support proceeding under this [article], the [governmental entity] of this state shall:

(1) transmit and receive applications; and

(2) initiate or facilitate the institution of a proceeding regarding an application in a tribunal of this state.

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

(1) recognition or recognition and enforcement of a foreign support order;

(2) enforcement of a support order issued or recognized in this state;

(3) establishment of a support order if there is no existing order, including, if necessary, determination of parentage of a child;

(4) establishment of a support order if recognition of a foreign support order is refused under Section 708(2), (4), or (9);

(5) modification of a support order of a tribunal of this state; and

(6) modification of a support order of a tribunal of another state or a foreign country.

(c) The following support proceedings are available under the Convention to an obligor against which there is an existing support order:

(1) recognition of an order suspending or limiting enforcement of an existing support order of a tribunal of this state;

(2) modification of a support order of a tribunal of this state; and

(3) modification of a support order of a tribunal of another state or a foreign country.

(d) A tribunal of this state may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the Convention.

SECTION 706. REGISTRATION OF CONVENTION SUPPORT ORDER.

(a) Except as otherwise provided in this [article], a party who is an individual or a support enforcement agency seeking recognition of a Convention support order shall register the order in this state as provided in [Article] 6.

(b) Notwithstanding Sections 311 and 602(a), a request for registration of a Convention support order must be accompanied by:

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

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

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

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

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

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

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

(d) A tribunal of this state may vacate the registration of a Convention support order without the filing of a contest under Section 707 only if, acting on its own motion, the tribunal finds that recognition and enforcement of the order would be manifestly incompatible with public policy.

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

SECTION 707. CONTEST OF REGISTERED CONVENTION SUPPORT ORDER.

(a) Except as otherwise provided in this [article], Sections 605 through 608 apply to a contest of a registered Convention support order.

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

(c) If the nonregistering party fails to contest the registered Convention support order by the time specified in subsection (b), the order is enforceable.

(d) A contest of a registered Convention support order may be based only on grounds set forth in Section 708. The contesting party bears the burden of proof.

(e) In a contest of a registered Convention support order, a tribunal of this state:

(1) is bound by the findings of fact on which the foreign tribunal based its jurisdiction; and

(2) may not review the merits of the order.

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

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

SECTION 708. RECOGNITION AND ENFORCEMENT OF REGISTERED CONVENTION SUPPORT ORDER.

(a) Except as otherwise provided in subsection (b), a tribunal of this state shall recognize and enforce a registered Convention support order.

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

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

(2) the issuing tribunal lacked personal jurisdiction consistent with Section 201;

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

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

(5) a record transmitted in accordance with Section 706 lacks authenticity or integrity;

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

(7) the order is incompatible with a more recent support order involving the same parties and having the same purpose if the more recent support order is entitled to recognition and enforcement under this [act] 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:

(A) if the law of that country provides for prior notice of proceedings, the respondent did not have proper notice of the proceedings and an opportunity to be heard; or

(B) if the law of that country does not provide for prior notice of the proceedings, the respondent did not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or law before a tribunal; or

(10) the order was made in violation of Section 711.

(c) If a tribunal of this state does not recognize a Convention support order under subsection (b)(2), (4), (6), or (9):

(1) the tribunal may not dismiss the proceeding without allowing a reasonable time for a party to request the establishment of a new Convention support order; and

(2) the [governmental entity] 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 704.

SECTION 709. PARTIAL ENFORCEMENT. If a tribunal of this state does not recognize and enforce a Convention support order in its entirety, it shall enforce any severable part of the order. An application or direct request may seek recognition and partial enforcement of a Convention support order.

SECTION 711. MODIFICATION OF CONVENTION CHILD-SUPPORT ORDER.

(a) A tribunal of this state may not modify a Convention child-support order if the obligee remains a resident of the foreign country where the support order was issued unless:

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

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

(b) If a tribunal of this state does not modify a Convention child-support order because the order is not recognized in this state, Section 708(c) applies.