

By Representative Laurent

1 A bill to be entitled
2 An act relating to uniform interstate family
3 support; amending s. 88.1011, F.S.; revising
4 definitions; amending s. 88.2051, F.S.;
5 providing for effect of the act with respect to
6 continuing exclusive jurisdiction; amending s.
7 88.2071, F.S., revising or prescribing
8 guidelines and duties of parties with respect
9 to recognition of controlling child support
10 orders; amending s. 88.3011, F.S., relating to
11 proceedings under the act; conforming cross
12 references; amending s. 88.3041, F.S.; revising
13 authority of initiating tribunal; redesignating
14 part IV of chapter 88, F.S., relating to
15 establishment of support order; amending s.
16 88.5011, F.S., relating to employer's receipt
17 of income-withholding order of another state;
18 removing certain provisions relating to
19 employer's duties; creating s. 88.5022, F.S.;
20 prescribing employer's duties and guidelines
21 with respect to compliance with
22 income-withholding order of another state;
23 creating s. 88.5031, F.S.; prescribing
24 guidelines with respect to employer's
25 compliance with multiple income-withholding
26 orders; creating s. 88.5041, F.S.; providing
27 immunity from civil liability to employer upon
28 compliance with another state's
29 income-withholding order, under specified
30 circumstances; creating s. 88.5051, F.S.;
31 providing for imposition of penalties upon

1 employer for willful failure to comply with
2 another state's income-withholding order which
3 is received for enforcement; creating s.
4 88.5061, F.S.; providing for contest by obligor
5 of the validity or enforcement of another
6 state's income-withholding order received
7 directly by employer in this state; amending s.
8 88.6041, F.S., relating to choice of law;
9 providing for interest payment with respect to
10 unpaid arrearages under the order; amending s.
11 88.6111, F.S.; revising guidelines with respect
12 to modification of child support order of
13 another state; amending s. 88.6121, F.S.;
14 providing for effect of the act with respect to
15 recognition of order modified in another state;
16 creating s. 88.6131, F.S.; providing for
17 jurisdiction to modify support order of another
18 state when individual parties reside in this
19 state and prescribing duties of party obtaining
20 the modification; amending s. 88.7011, F.S.;
21 providing for effect of another law
22 substantially similar to the act with respect
23 to proceeding to determine parentage; providing
24 an effective date.

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26 Be It Enacted by the Legislature of the State of Florida:

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28 Section 1. Subsections (7), (16), (19), and (20) of
29 section 88.1011, Florida Statutes, 1996 Supplement, are
30 amended to read:

31 88.1011 Definitions.--As used in this act:

1 (7) "Initiating state" means a state from ~~in~~ which a
2 proceeding is forwarded or is filed for forwarding to a
3 responding state under this act or a law substantially similar
4 to this act, or under a law or procedure substantially similar
5 to the Uniform Reciprocal Enforcement of Support Act, or the
6 Revised Uniform Reciprocal Enforcement of Support Act ~~is filed~~
7 ~~for forwarding to a responding state.~~

8 (16) "Responding state" means a state in ~~to~~ which a
9 proceeding is filed or to which a proceeding is forwarded for
10 filing from an initiating state under this act or a law
11 substantially similar to this act, or under a law or
12 proceeding substantially similar to the Uniform Reciprocal
13 Enforcement of Support Act, or the Revised Uniform Reciprocal
14 Enforcement of Support Act.

15 (19) "State" means a state of the United States, the
16 District of Columbia, the Commonwealth of Puerto Rico, or any
17 territory or insular possession subject to the jurisdiction of
18 the United States. The term "state" includes:

19 (a) An Indian tribe; and

20 (b) includes A foreign jurisdiction that has enacted a
21 law or established procedures for issuance and enforcement of
22 support orders which are substantially similar to the
23 procedures under this act, or the procedures under the Uniform
24 Reciprocal Enforcement of Support Act or the Revised Uniform
25 Reciprocal Enforcement of Support Act, as determined by the
26 Attorney General.

27 (20) "Support enforcement agency" means a public
28 official or agency authorized ~~to seek~~:

29 (a) To seek enforcement of support orders or laws
30 relating to the duty of support;

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1 (b) To seek establishment or modification of child
2 support;

3 (c) To seek determination of parentage; or

4 (d) To locate obligors or their assets.

5 Section 2. Subsections (2), (3), and (4) of section
6 88.2051, Florida Statutes, 1996 Supplemental, are amended to
7 read:

8 88.2051 Continuing exclusive jurisdiction.--

9 (2) A tribunal of this state issuing a child support
10 order consistent with the law of this state may not exercise
11 its continuing jurisdiction to modify the order if the order
12 has been modified by a tribunal of another state pursuant to
13 this act or a law substantially similar to this act.

14 (3) If a child support order of this state is modified
15 by a tribunal of another state pursuant to this act or a law
16 substantially similar to this act, a tribunal of this state
17 loses its continuing exclusive jurisdiction with regard to
18 prospective enforcement of the order issued in this state, and
19 may only:

20 (a) Enforce the order that was modified as to amounts
21 accruing before the modification;

22 (b) Enforce nonmodifiable aspects of that order; and

23 (c) Provide other appropriate relief for violations of
24 that order which occurred before the effective date of the
25 modification.

26 (4) A tribunal of this state shall recognize the
27 continuing exclusive jurisdiction of a tribunal of another
28 state which has issued a child support order pursuant to this
29 act or a law substantially similar to this act.

30 Section 3. Section 88.2071, Florida Statutes, 1996
31 Supplement, is amended to read:

1 88.2071 Recognition of controlling child support order
2 orders.--

3 (1) If a proceeding is brought under this act and only
4 one tribunal has issued a child support order, the order of
5 that tribunal is controlling and must be recognized.

6 (2)(1) If a proceeding is brought under this act, and
7 two one or more child support orders have been issued by
8 tribunals of in this state or another state with regard to the
9 same an obligor and a child, a tribunal of this state shall
10 apply the following rules in determining which order to
11 recognize for purposes of continuing exclusive jurisdiction:

12 ~~(a) If only one tribunal has issued a child support~~
13 ~~order, the order of that tribunal must be recognized.~~

14 (a)(b) If two or more tribunals have issued child
15 support orders for the same obligor and child, and only one of
16 the tribunals would have continuing exclusive jurisdiction
17 under this act, the order of that tribunal is controlling and
18 must be recognized.

19 (b)(c) If two or more tribunals have issued child
20 support orders for the same obligor and child, and more than
21 one of the tribunals would have continuing exclusive
22 jurisdiction under this act, an order issued by a tribunal in
23 the current home state of the child must be recognized, but if
24 an order has not been issued in the current home state of the
25 child, the order most recently issued is controlled and must
26 be recognized.

27 (c)(d) If two or more tribunals have issued child
28 support orders for the same obligor and child, and none of the
29 tribunals would have continuing exclusive jurisdiction under
30 this act, the tribunal of this state having jurisdiction over
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1 the parties must ~~may~~ issue a child support order, which is
2 controlling and must be recognized.

3 (3) If two or more child support orders have been
4 issued for the same obligor and child and an individual party
5 continues to reside in this state, a party may request a
6 tribunal of this state to determine which order is controlling
7 and must be recognized under subsection (2). The request must
8 be accompanied by a certified copy of every support order in
9 effect. Every party whose rights may be affected by a
10 determination of the controlling order must be given notice of
11 the request for that determination.

12 ~~(4)(2)~~ The tribunal that has issued the ~~an~~ order that
13 must be recognized as controlling under subsection (1), (2),
14 or (3) is the tribunal that will be determined to have ~~having~~
15 continuing exclusive jurisdiction in accordance with s.
16 88.2051.

17 (5) If two or more tribunals have issued child support
18 orders for the same obligor and child, a tribunal of this
19 state which determines the controlling order that must be
20 recognized under paragraph (2)(a) or paragraph (2)(b), or
21 which issues a new controlling order under paragraph (2)(c),
22 shall include in the order the basis upon which the tribunal
23 made its determination. Within 30 days after issuance of the
24 order in which the tribunal determines the controlling order,
25 the party obtaining that order shall file a certified copy of
26 it with each tribunal that had issued or registered an earlier
27 order of child support.

28 Section 4. Subsection (1) and paragraph (g) of
29 subsection (2) of section 88.3011, Florida Statutes, 1996
30 Supplement, are amended to read:

31 88.3011 Proceedings under this act.--

1 (1) Except as otherwise provided in this act, this
2 part article applies to all proceedings under this act.

3 (2) This act provides for the following proceedings:

4 (g) Assertion of jurisdiction over nonresidents
5 pursuant to ss. 88.2011-88.2021 ~~88.201-88.202~~.

6 Section 5. Section 88.3041, Florida Statutes, 1996
7 Supplement, is amended to read:

8 88.3041 Duties of initiating tribunal.--

9 (1) Upon the filing of a petition or comparable
10 pleading authorized by this act, an initiating tribunal of
11 this state shall forward three copies of the petition and its
12 accompanying documents or a comparable pleading and its
13 accompanying documents:

14 (a)~~(1)~~ To the responding tribunal or appropriate
15 support enforcement agency in the responding state; or

16 (b)~~(2)~~ If the identity of the responding tribunal is
17 unknown, to the state information agency of the responding
18 state with a request that they be forwarded to the appropriate
19 tribunal and that receipt be acknowledged.

20 (2) When required by the law of a responding state
21 that has not enacted this act or a law substantially similar
22 to this act, a tribunal of this state may issue a certificate
23 or similar order specifying the obligation of support. If the
24 responding state is a foreign jurisdiction, the tribunal may
25 provide the amount of support and auxiliary documents
26 necessary to satisfy the requirements of the responding state
27 for the establishment, enforcement, or modification of child
28 support.

29 Section 6. Part IV of chapter 88, Florida Statutes,
30 1996 Supplement, consisting of s. 88.4011, is redesignated as
31 "ESTABLISHMENT OF SUPPORT ORDER."

1 Section 7. Section 88.5011, Florida Statutes, 1996
2 Supplement, is amended to read:

3 88.5011 Employer's receipt ~~Recognition~~ of
4 income-withholding order of another state.--

5 (1) An income-withholding order issued in another
6 state may be sent by first class mail to the person or entity
7 defined as the obligor's employer under the income deduction
8 law of this state or payor as defined by s. 61.046, without
9 first filing a petition or comparable pleading or registering
10 the order with a tribunal of this state. ~~Upon receipt of the~~
11 ~~order, the employer shall:~~

12 ~~(a) Treat an income-withholding order issued in~~
13 ~~another state which appears regular on its face as if it had~~
14 ~~been issued by a tribunal of this state.~~

15 ~~(b) Immediately provide a copy of the order to the~~
16 ~~obligor.~~

17 ~~(c) Distribute the funds as directed in the~~
18 ~~withholding order.~~

19 ~~(2) An obligor may contest the validity or enforcement~~
20 ~~of an income-withholding order issued in another state in the~~
21 ~~same manner as if the order had been issued by a tribunal of~~
22 ~~this state. Section 88.6041 (choice of law) applies to the~~
23 ~~contest. The obligor shall give notice of the contest to any~~
24 ~~support enforcement agency providing services to the obligee~~
25 ~~and to:~~

26 ~~(a) The person or agency designated to receive~~
27 ~~payments in the income-withholding order; or~~

28 ~~(b) If no person or agency is designated, the obligee.~~

29 Section 8. Section 88.5022, Florida Statutes, is
30 created to read:

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1 88.5022 Employer's compliance with income-withholding
2 order of another state.--
3 (1) Upon receipt of the order, the obligor's employer
4 shall immediately provide a copy of the order to the obligor.
5 (2) The employer shall treat an income-withholding
6 order issued in another state which appears regular on its
7 face as if it had been issued by a tribunal of this state.
8 (3) Except as provided by subsection (4) and s.
9 88.5031, the employer shall withhold and distribute the funds
10 as directed in the withholding order by complying with the
11 terms of the order, as applicable, that specify:
12 (a) The duration and the amount of periodic payments
13 of current child support, stated as a sum certain.
14 (b) Medical support, whether in the form of periodic
15 cash payment, stated as a sum certain, or ordering the obligor
16 to provide health insurance coverage for the child under a
17 policy available through the obligor's employment.
18 (c) The amount of periodic payments of fees and costs
19 for a support enforcement agency, the issuing tribunal, and
20 the obligee's attorney, stated as sums certain.
21 (d) The amount of periodic payments of arrears and
22 interest on arrears to be withheld, stated as sums certain.
23 (4) The employer shall apply the law of the state of
24 the obligor's principal place of employment for withholding
25 from income:
26 (a) The employer's fee for processing an
27 income-withholding order.
28 (b) The maximum amount permitted to be withheld from
29 the obligor's income.
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1 (c) The time periods within which the employer must
2 implement the withholding order and forward the child support
3 payment.

4 Section 9. Section 88.5031, Florida Statutes, is
5 created to read:

6 88.5031 Compliance with multiple income-withholding
7 orders.--If the obligor's employer receives multiple orders to
8 withhold support from the earnings of the same obligor, the
9 employer shall be deemed to have complied with the terms of
10 the multiple orders if the law of the state of the obligor's
11 principal place of employment is applied to establish the
12 priorities for withholding and allocating income withheld for
13 multiple child support obligees.

14 Section 10. Section 88.5041, Florida Statutes, is
15 created to read:

16 88.5041 Immunity from civil liability.--An employer
17 who complies with an income-withholding order issued in
18 another state in accordance with this part is not subject to
19 civil liability to any individual or agency.

20 Section 11. Section 88.5051, Florida Statutes, is
21 created to read:

22 88.5051 Penalties for noncompliance.--An employer who
23 willfully fails to comply with an income-withholding order
24 issued by another state and received for enforcement is
25 subject to the same penalties as imposed for noncompliance
26 with an order issued by a tribunal of this state.

27 Section 12. Section 88.5061, Florida Statutes, is
28 created to read:

29 88.5061 Contest by obligor.--An obligor may contest
30 the validity or enforcement of an income-withholding order
31 issued in another state and received directly by an employer

1 in this state in the same manner as if the order had been
2 issued by a tribunal of this state. Section 88.6041 applies
3 to the contest. The obligor shall give notice of the contest
4 to any support enforcement agency providing services to the
5 obligee and to:

6 (1) The person or agency designated to receive
7 payments in the income-withholding order; or

8 (2) If no person or agency is designated, the obligee.

9 Section 13. Section 88.5021, Florida Statutes, 1996
10 Supplement, is renumbered as section 88.5071, Florida
11 Statutes.

12 Section 14. Subsection (1) of section 88.6041, Florida
13 Statutes, 1996 Supplement, is amended to read:

14 88.6041 Choice of law.--

15 (1) The law of the issuing state governs the nature,
16 extent, amount, and duration of current payments and other
17 obligations of support and the payment of, amount of, and
18 interest rate on accrued, unpaid arrearages under the order.

19 Section 15. Subsection (1) and (3) of section 88.6111,
20 Florida Statutes, 1996 Supplement, are amended to read:

21 88.6111 Modification of child support order of another
22 state.--

23 (1) After a child support order issued in another
24 state has been registered in this state, unless the provisions
25 of s. 88.6131 apply, the responding tribunal of this state may
26 modify that order only if, after notice and hearing, it finds
27 that:

28 (a) The following requirements are met:

29 1. The child, the individual obligee, and the obligor
30 do not reside in the issuing state;

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1 2. A petitioner who is a nonresident of this state
2 seeks modification; and

3 3. The respondent is subject to the personal
4 jurisdiction of the tribunal of this state; or

5 (b) An individual party or the child is subject to the
6 personal jurisdiction of the tribunal and all of the
7 individual parties have filed a written consent in the issuing
8 tribunal providing that a tribunal of this state may modify
9 the support order and assume continuing exclusive jurisdiction
10 over the order. However, if the issuing state is a foreign
11 jurisdiction which has not enacted this act, the written
12 consent of the individual party residing in this state is not
13 required for the tribunal to assume jurisdiction to modify the
14 child support order.

15 (3) A tribunal of this state may not modify any aspect
16 of a child support order that may not be modified under the
17 law of the issuing state. If two or more tribunals have
18 issued child support orders for the same obligor and child,
19 the order that is controlling and must be recognized under the
20 provisions of s. 88.2071 establishes the nonmodifiable aspects
21 of the support order.

22 Section 16. Section 88.6121, Florida Statutes, 1996
23 Supplement, is amended to read:

24 88.6121 Recognition of order modified in another
25 state.--A tribunal of this state shall recognize a
26 modification of its earlier child support order by a tribunal
27 of another state which assumed jurisdiction pursuant to this
28 act or a law substantially similar to this act and, upon
29 request, except as otherwise provided in this act, shall:

30 (1) Enforce the order that was modified only as to
31 amounts accruing before the modification.

1 (2) Enforce only nonmodifiable aspects of that order.

2 (3) Provide other appropriate relief only for
3 violations of that order which occurred before the effective
4 date of the modification.

5 (4) Recognize the modifying order of the other state,
6 upon registration, for the purpose of enforcement.

7 Section 17. Section 88.6131, Florida Statutes, is
8 created to read:

9 88.6131 Jurisdiction to modify support order of
10 another state when individual parties reside in this state.--

11 (1) If all of the individual parties reside in this
12 state and the child does not reside in the issuing state, a
13 tribunal of this state has jurisdiction to enforce and to
14 modify the issuing states child support order in a proceeding
15 to register that order.

16 (2) A tribunal of this state exercising jurisdiction
17 as provided in this section shall apply the provisions of
18 parts II and VI to the enforcement or modification proceeding.
19 Parts III through V, and parts VII and VIII do not apply and
20 the tribunal shall apply the procedural and substantive law of
21 this state.

22 (3) Within 30 days after issuance of a modified child
23 support order, the party obtaining the modification shall file
24 a certified copy of the order with the issuing tribunal which
25 had continuing, exclusive jurisdiction over the earlier order,
26 and in each tribunal in which the party knows that earlier
27 order has been registered.

28 Section 18. Subsection (1) of section 88.7011, Florida
29 Statutes, 1996 Supplement, is amended to read:

30 88.7011 Proceeding to determine parentage.--
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1 (1) A tribunal of this state may serve as an
2 initiating or responding tribunal in a proceeding brought
3 under this act or a law substantially similar to this act, or
4 under a law substantially similar to the Uniform Reciprocal
5 Enforcement of Support Act, or the Revised Uniform Reciprocal
6 Enforcement of Support Act to determine that the petitioner is
7 a parent of a particular child or to determine that a
8 respondent is a parent of that child.

9 Section 19. This act shall take effect July 1, 1997,
10 and shall apply to all proceedings for support or for
11 modification of support orders, or proceedings for
12 determination of parentage, commenced on or after that date.

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14 HOUSE SUMMARY

15
16 Revises chapter 88, F.S., the Uniform Interstate Family
17 Support Act, as created by chapter 96-189, Laws of
18 Florida. Revises definitions. Provides for effect of
19 the act with respect to continuing exclusive
20 jurisdiction. Revises or prescribes guidelines and
21 duties of parties with respect to recognition of
22 controlling child support orders. Revises authority of
23 initiating tribunal. Prescribes or revises employer's
24 duties and guidelines with respect to compliance with
25 income-withholding order of another state, and with
26 respect to employer's compliance with multiple
27 income-withholding orders. Provides for immunity from
28 civil liability to employer upon compliance with another
29 state's income-withholding order, under specified
30 circumstances. Provides for imposition of penalties upon
31 employer for willful failure to comply with another
state's income-withholding order which is received for
enforcement. Provides for contest by obligor of the
validity or enforcement of another state's
income-withholding order received directly by employer in
this state. Provides for interest payment with respect
to unpaid arrearages under the order. Revises guidelines
with respect to modification of child support order of
another state. Provides for effect of the act with
respect to recognition of order modified in another
state. Provides for jurisdiction to modify support order
of another state when individual parties reside in this
state, and prescribes duties of party obtaining the
modification. Provides for effect of another law
substantially similar to the act with respect to
proceeding to determine parentage.