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HOUSE BILL NO. 1601

Offered January 14, 2015

Prefiled January 8, 2015

A *BILL to amend and reenact §§ 20-88.32 through 20-88.35, 20-88.37, 20-88.38, 20-88.40 through 20-88.44, 20-88.47, 20-88.48, 20-88.50, 20-88.51, 20-88.53, 20-88.54, 20-88.56, 20-88.59 through 20-88.64, 20-88.64:3, 20-88.64:4, 20-88.65 through 20-88.73, 20-88.75, 20-88.76, and 20-88.77:3 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 20-88.32:1, by adding in Article 1 of Chapter 5.3 of Title 20 a section numbered 20-88.34:1, by adding in Article 6 of Chapter 5.3 of Title 20 a section numbered 20-88.63:1, and by adding in Chapter 5.3 of Title 20 an article numbered 13, consisting of sections numbered 20-88.83 through 20-88.95; and to repeal Articles 10 (§ 20-88.78) and 12 (§§ 20-88.81 and 20-88.82) of Chapter 5.3 of Title 20 of the Code of Virginia, relating to the Uniform Interstate Family Support Act.*

Patrons—Watts and Simon

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 20-88.32 through 20-88.35, 20-88.37, 20-88.38, 20-88.40 through 20-88.44, 20-88.47, 20-88.48, 20-88.50, 20-88.51, 20-88.53, 20-88.54, 20-88.56, 20-88.59 through 20-88.64, 20-88.64:3, 20-88.64:4, 20-88.65 through 20-88.73, 20-88.75, 20-88.76, and 20-88.77:3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 20-88.32:1, by adding in Article 1 of Chapter 5.3 of Title 20 a section numbered 20-88.34:1, by adding in Article 6 of Chapter 5.3 of Title 20 a section numbered 20-88.63:1, and by adding in Chapter 5.3 of Title 20 an article numbered 13, consisting of sections numbered 20-88.83 through 20-88.95, as follows:

§ 20-88.32. Definitions.

In this chapter:

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

"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.

"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*.

"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.

"Employer" means the source of any income as defined in § 63.2-1900.

"Foreign country" means a country, including a political subdivision thereof, other than the United States, that authorizes the issuance of support orders and:

1. That has been declared under the law of the United States to be a foreign reciprocating country;

2. That has established a reciprocal arrangement for child support with the Commonwealth as provided in § 20-88.50;

3. That 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

4. In which the Convention is in force with respect to the United States.

"Foreign support order" means a support order of a foreign tribunal.

"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.

"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 or other period.

"Income" includes earnings or other periodic entitlements to money from any source and any other property subject to withholding for support under the law of the Commonwealth.

"Income-withholding order" means an order or other legal process directed to an obligor's employer or other debtor, to withhold support from the obligor's income as defined in § 63.2-1900.

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59 "Initiating state" means a state from which a proceeding is forwarded or in which a proceeding is
60 filed for forwarding to a responding state under this chapter or law or procedure substantially similar to
61 this chapter.

62 "Initiating tribunal" means the authorized tribunal in an initiating of a state or foreign country from
63 which a petition or comparable pleading is forwarded or in which a petition or comparable pleading is
64 filed for forwarding to another state or foreign country.

65 "Issuing foreign country" means the foreign country in which a tribunal issues a support order or a
66 judgment determining parentage of a child.

67 "Issuing state" means the state in which a tribunal issues a support order or renders a judgment
68 determining parentage of a child.

69 "Issuing tribunal" means the tribunal of a state or foreign country that issues a support order or
70 renders a judgment determining parentage of a child.

71 "Law" includes decisional and statutory law and rules and regulations having the force of law.

72 "Obligee" means (i) an individual to whom a duty of support is or is alleged to be owed or in whose
73 favor a support order has been issued or a judgment determining parentage of a child has been rendered
74 issued, (ii) a foreign country, state, or political subdivision of a state to which the rights under a duty of
75 support or support order have been assigned or which has independent claims based on financial
76 assistance provided to an individual obligee in place of child support, or (iii) an individual seeking a
77 judgment determining parentage of the individual's child, or (iv) a person that is a creditor in a
78 proceeding under Article 13 (§ 20-88.83 et seq.).

79 "Obligor" means an individual, or the estate of a decedent, who that (i) owes or is alleged to owe a
80 duty of support, (ii) is alleged but has not been adjudicated to be a parent of a child, or (iii) is liable
81 under a support order, or (iv) is a debtor in a proceeding under Article 13 (§ 20-88.83 et seq.).

82 "Outside the Commonwealth" means a location in another state, political subdivision of a state, or a
83 country other than the United States, whether or not the country is a foreign country.

84 "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability
85 company, association, joint venture, public corporation, government or governmental subdivision,
86 agency, or instrumentality, or any other legal or commercial entity.

87 "Record" means information that is inscribed on a tangible medium or that is stored in an electronic
88 or other medium and is retrievable in perceivable form.

89 "Register" means to file a support order or judgment determining parentage in the juvenile and
90 domestic relations district court or with the Division of Child Support Enforcement of the Department of
91 Social Services in a tribunal of the Commonwealth a support order or judgment determining parentage
92 of a child issued in another state or a foreign country.

93 "Registering tribunal" means a tribunal in which a support order or judgment determining parentage
94 of a child is registered.

95 "Responding state" means a state or a foreign country in which a proceeding is filed or to which a
96 proceeding petition or comparable pleading for support or to determine parentage of a child is filed or
97 to which a petition or comparable pleading is forwarded for filing from an initiating another state under
98 this chapter or a law or procedure substantially similar to this chapter or a foreign country.

99 "Responding tribunal" means the authorized tribunal in a responding state or foreign country.

100 "Spousal-support order" means a support order for a spouse or former spouse of the obligor.

101 "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States
102 Virgin Islands, or any territory or insular possession subject to under the jurisdiction of the United
103 States, or a Native American tribe. The term includes any foreign country or political subdivision that
104 has been declared to be a foreign reciprocating country or political subdivision under federal law, has
105 established a child support reciprocity arrangement with the Commonwealth, or has enacted a law or
106 established procedures for issuance and enforcement of support orders that are substantially similar to
107 the procedures under this chapter an Indian nation or tribe.

108 "Support enforcement agency" means a public official, governmental entity, or private agency
109 authorized to (i) seek enforcement of support orders or laws relating to the duty of support, (ii) seek
110 establishment or modification of child support, (iii) request determination of parentage of a child,
111 location of (iv) attempt to locate obligors or their assets, or (v) request determination of the controlling
112 child support order. A support enforcement agency of the Commonwealth is not authorized to establish
113 or enforce a support order for spousal support only.

114 "Support order" means a judgment, decree, or order, decision, or directive, whether temporary, final,
115 or subject to modification, issued by a tribunal in a state or foreign country for the benefit of a child, a
116 spouse, or a former spouse, which provides for monetary support, health care, arrearages, retroactive
117 support, or reimbursement, and for financial assistance provided to an individual obligee in place of
118 child support. The term may include related costs and fees, interest, income withholding, automatic
119 adjustment, reasonable attorney's fees, and other relief.

120 "Tribunal" means a court, administrative agency, or quasi-judicial entity authorized to establish,

enforce, or modify support orders or to determine parentage of a child; however, the support enforcement agency of the Commonwealth has no authority to establish or enforce a support order for spousal support only.

§ 20-88.32:1. Uniformity of application and construction.

In applying and construing this Uniform Interstate Family Support Act, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

§ 20-88.33. Tribunals of the Commonwealth and support enforcement agency.

A. The juvenile and domestic relations district courts, circuit courts, and the Department of Social Services are the tribunals of the Commonwealth.

B. *The Department of Social Services is the support enforcement agency of the Commonwealth.*

§ 20-88.34. Remedies cumulative.

A. Remedies provided by this chapter are cumulative and do not affect the availability of remedies under other law, ~~including or the recognition of a foreign support order of a foreign country or political subdivision on the basis of comity.~~

B. This chapter does not provide the exclusive method of establishing or enforcing a support order under the law of the Commonwealth or grant a tribunal of the Commonwealth jurisdiction to render judgment or issue an order relating to child custody or visitation in a proceeding under this chapter.

§ 20-88.34:1. Application of chapter to resident of foreign country and foreign support proceeding.

A. A tribunal of the Commonwealth shall apply Articles 1 through 9 (§ 20-88.32 et seq.) and, as applicable, Article 13 (§ 20-88.83 et seq.) to a support proceeding involving a foreign support order, a foreign tribunal, or an obligee, obligor, or child residing in a foreign country.

B. A tribunal of the Commonwealth 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 9 (§ 20-88.32 et seq.).

C. Article 13 (§ 20-88.83 et seq.) applies only to a support proceeding under the Convention. In such a proceeding, if a provision of Article 13 is inconsistent with Articles 1 through 9 (§ 20-88.32 et seq.), Article 13 controls.

§ 20-88.35. Bases for jurisdiction over nonresident.

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

1. The individual is personally served with process within the Commonwealth;
2. The individual submits to the jurisdiction of the Commonwealth by consent, 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 the Commonwealth;
4. The individual resided in the Commonwealth and paid prenatal expenses or provided support for the child;
5. The child resides in the Commonwealth as a result of the acts or directives of the individual;
6. *The individual engaged in sexual intercourse in the Commonwealth and the child may have been conceived by the act of intercourse;*
7. *The individual asserted parentage of a child in the putative father registry maintained in the Commonwealth by the Department of Social Services;*
8. The exercise of personal jurisdiction is authorized under subdivision A 8 of § 8.01-328.1; or
- ~~7.~~ 9. There is any other basis consistent with the constitutions of the Commonwealth and the United States for the exercise of personal jurisdiction.

The bases of personal jurisdiction set forth in this section or any other law of the Commonwealth may not be used to acquire personal jurisdiction for a tribunal of the Commonwealth to modify a child support order issued by a tribunal of another state unless the requirements of § 20-88.76 or 20-88.77:3 are met.

§ 20-88.37. Initiating and responding tribunal of the Commonwealth.

Under this chapter, a tribunal of ~~this the~~ Commonwealth 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 a foreign country.

§ 20-88.38. Simultaneous proceedings in another state.

A. A tribunal of ~~this the~~ Commonwealth may exercise jurisdiction to establish a support order if the petition or comparable pleading is filed after a pleading is filed in another state or foreign country only if:

1. The petition or comparable pleading in ~~this the~~ Commonwealth is filed before the expiration of the

182 time allowed in the other state *or the foreign country* for filing a responsive pleading challenging the
183 exercise of jurisdiction by the other state *or the foreign country*;

184 2. The contesting party timely challenges the exercise of jurisdiction in the other state *or the foreign*
185 *country*; and

186 3. If relevant, ~~this~~ *the* Commonwealth is the home state of the child.

187 B. A tribunal of ~~this~~ *the* Commonwealth may not exercise jurisdiction to establish a support order if
188 the petition or comparable pleading is filed before a petition or comparable pleading is filed in another
189 state *or foreign country* if:

190 1. The petition or comparable pleading in the other state *or foreign country* is filed before the
191 expiration of the time allowed in ~~this~~ *the* Commonwealth for filing a responsive pleading challenging
192 the exercise of jurisdiction by ~~this~~ *the* Commonwealth;

193 2. The contesting party timely challenges the exercise of jurisdiction in ~~this~~ *the* Commonwealth; and

194 3. If relevant, the other state *or foreign country* is the home state of the child.

195 **§ 20-88.40. Continuing jurisdiction to enforce child support order.**

196 A. A tribunal of the Commonwealth that has issued a child support order consistent with the law of
197 the Commonwealth may serve as an initiating tribunal to request a tribunal of another state to enforce:

198 1. The order if the order is the controlling order and has not been modified by a tribunal of another
199 state that assumed jurisdiction pursuant to this chapter; or

200 2. A money judgment for arrears of support and interest on the order accrued before a determination
201 that an order of *a tribunal of* another state is the controlling order.

202 B. A tribunal of the Commonwealth having continuing jurisdiction over a support order may act as a
203 responding tribunal to enforce the order.

204 **§ 20-88.41. Determination of controlling child support order.**

205 A. If a proceeding is brought under this chapter and only one tribunal has issued a child support
206 order, the order of that tribunal controls and shall be so recognized.

207 B. If a proceeding is brought under this chapter, and two or more child support orders have been
208 issued by tribunals of the Commonwealth or another state *or foreign country* with regard to the same
209 obligor and same child, a tribunal of the Commonwealth having personal jurisdiction over both the
210 obligor and individual obligee shall apply the following rules and by order shall determine which order
211 controls *and must be recognized*:

212 1. If only one of the tribunals would have continuing, exclusive jurisdiction under this chapter, the
213 order of that tribunal controls ~~and shall be so recognized~~.

214 2. If more than one of the tribunals would have continuing, exclusive jurisdiction under this chapter,
215 (i) an order issued by a tribunal in the current home state of the child controls, ~~but~~ *or* (ii) if an order
216 has not been issued in the current home state of the child, the order most recently issued controls.

217 3. If none of the tribunals would have continuing, exclusive jurisdiction under this chapter, a tribunal
218 of the Commonwealth shall issue a child support order, which controls.

219 C. If two or more child support orders have been issued for the same obligor and same child, upon
220 request of a party who is an individual or a support enforcement agency, a tribunal of the
221 Commonwealth having personal jurisdiction over both the obligor and the obligee who is an individual
222 shall determine which order controls under subsection B. The request may be filed with a registration
223 for enforcement or registration for modification pursuant to Articles 8 (§ 20-88.66 et seq.) and 9
224 (§ 20-88.74 et seq.) or may be filed as a separate proceeding.

225 D. A request to determine which is the controlling order shall be accompanied by a copy of every
226 child support order in effect and the applicable record of payments. The requesting party shall give
227 notice of the request to each party whose rights may be affected by the determination.

228 E. The tribunal that issued the controlling order under subsection A, B or C has continuing
229 jurisdiction to the extent provided in § 20-88.39 or 20-88.40.

230 F. A tribunal of the Commonwealth that determines by order which is the controlling order under
231 subdivision B 1 or B 2 or under subsection C or that issues a new controlling order under subdivision B
232 3 shall state in that order:

233 1. The basis upon which the tribunal made its determination;

234 2. The amount of prospective support, if any; and

235 3. The total amount of consolidated arrears and accrued interest, if any, under all of the orders after
236 all payments made are credited as provided by § 20-88.43.

237 G. Within 30 days after issuance of an order determining which is the controlling order, the party
238 obtaining that order shall file a certified copy of it in each tribunal that had issued or registered an
239 earlier order of child support. A party or support enforcement agency obtaining the order that fails to
240 file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure arises.
241 The failure to file does not affect the validity or enforceability of the controlling order.

242 H. An order that has been determined to be the controlling order, or a judgment for consolidated
243 arrears of support and interest, if any, made pursuant to this section shall be recognized in proceedings

under this chapter.

§ 20-88.42. Child support orders for two or more obligees.

In responding to registrations or petitions for enforcement of two or more child support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another state *or a foreign country*, a tribunal of the Commonwealth shall enforce those orders in the same manner as if the orders had been issued by a tribunal of the Commonwealth.

§ 20-88.43. Credit for payments.

A tribunal of the Commonwealth shall credit amounts collected for a particular period pursuant to 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 *or a foreign country*.

§ 20-88.43:1. Application to nonresident subject to personal jurisdiction.

A tribunal of the Commonwealth exercising personal jurisdiction over a nonresident in a proceeding under this chapter, under other law of the Commonwealth relating to a support order, or recognizing a *foreign* support order of a ~~foreign country or political subdivision on the basis of comity~~ may receive evidence from ~~another state outside the Commonwealth~~ pursuant to § 20-88.59, communicate with a tribunal of another state *outside the Commonwealth* pursuant to § 20-88.60 and obtain discovery through a tribunal of ~~another state outside the Commonwealth~~ pursuant to § 20-88.61. In all other respects, Articles 5 (~~§ 20-88.44 et seq.~~) through 10 (~~§ 20-88.78~~) of this chapter 9 (~~§ 20-88.44 et seq.~~) do not apply and the tribunal shall apply the procedural and substantive law of the Commonwealth.

§ 20-88.43:2. Continuing, exclusive jurisdiction to modify spousal support order.

A. A court of the Commonwealth issuing a spousal support order consistent with the law of the Commonwealth has continuing, exclusive jurisdiction to modify the spousal support order throughout the existence of the support obligation.

B. A court of the Commonwealth may not modify a spousal support order issued by a tribunal of another state *or a foreign country* having continuing, exclusive jurisdiction over that order under the law of that state *or foreign country*.

C. A court of the Commonwealth that has continuing, exclusive jurisdiction over a spousal support order may serve as:

1. An initiating court to request a tribunal of another state to enforce the spousal support order issued in the Commonwealth; or

2. A responding court to enforce or modify its own spousal support order.

§ 20-88.44. Proceedings under this chapter.

A. Except as otherwise provided in this chapter, this article applies to all proceedings under this chapter.

B. An individual or a support enforcement agency may initiate a proceeding authorized under this chapter by filing a petition in an initiating tribunal for forwarding to a responding tribunal or by filing a petition or a comparable pleading directly in a tribunal of another state *or foreign country* that has or can obtain personal jurisdiction over the respondent.

§ 20-88.47. Duties of initiating tribunal.

A. Upon the filing of a petition authorized by this chapter, an initiating tribunal of the Commonwealth shall forward the petition and its accompanying documents (i) to the responding tribunal or appropriate support enforcement agency in the responding state or, (ii) 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.

B. If requested by the responding tribunal, a tribunal of the Commonwealth shall issue a certificate or other documents and make findings required by the law of the responding state. If the responding ~~state tribunal is in a foreign country or political subdivision~~, upon request the tribunal *of the Commonwealth* shall specify the amount of support sought, 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.

§ 20-88.48. Duties and powers of responding tribunal.

A. When a responding tribunal of the Commonwealth receives a petition or comparable pleading from an initiating tribunal or directly pursuant to subsection B of § 20-88.44, it shall cause the petition or pleading to be filed and notify the petitioner where and when it was filed. An order for spousal support only shall be forwarded to the appropriate juvenile and domestic relations court.

B. A responding tribunal of the Commonwealth, to the extent not prohibited by other law, may do one or more of the following:

1. ~~Issue~~ Establish or enforce a support order, modify a child support order, determine the controlling child support order, or determine parentage *of a child*;

305 2. Order an obligor to comply with a support order, specifying the amount and the manner of
306 compliance;
307 3. Order income withholding;
308 4. Determine the amount of any arrearages, and specify a method of payment;
309 5. Enforce orders by civil or criminal contempt, or both;
310 6. Set aside property for satisfaction of the support order;
311 7. Place liens and order execution on the obligor's property;
312 8. Order an obligor to keep the tribunal informed of the obligor's current residential address,
313 *electronic mail address*, telephone number, employer, address of employment, and telephone number at
314 the place of employment;
315 9. Issue a *capias* for an obligor who has failed after proper notice to appear at a hearing ordered by
316 the tribunal and enter the *capias* in any local and state computer systems for criminal warrants;
317 10. Order the obligor to seek appropriate employment by specified methods;
318 11. Award reasonable attorney's fees and other fees and costs; and
319 12. Grant any other available remedy.
320 C. A responding tribunal of the Commonwealth shall include in a support order issued under this
321 chapter, or in the documents accompanying the order, the calculations on which the support order is
322 based.
323 D. A responding tribunal of the Commonwealth may not condition the payment of a support order
324 issued under this chapter upon compliance by a party with provisions for visitation.
325 E. If a responding tribunal of the Commonwealth issues an order under this chapter, the tribunal
326 shall promptly send a copy of the order to the petitioner and the respondent and to the initiating
327 tribunal, if any.
328 F. If requested to enforce a support order, arrears, or judgment or modify a support order stated in a
329 foreign currency, a responding tribunal of the Commonwealth shall convert the amount stated in the
330 foreign currency to the equivalent amount in U.S. dollars under the applicable official or market
331 exchange rate as publicly reported.
332 **§ 20-88.50. Duties of support enforcement agency.**
333 A. A support enforcement agency of the Commonwealth, upon request, shall provide services to a
334 petitioner in a proceeding under this chapter. ~~A~~
335 *B. In a proceeding under this chapter, a support enforcement agency of the Commonwealth that is*
336 *providing services to the petitioner shall:*
337 1. Take all steps necessary to enable an appropriate tribunal ~~in~~ *of* the Commonwealth ~~or~~, another
338 state, *or a foreign country* to obtain jurisdiction over the respondent;
339 2. Request an appropriate tribunal to set a date, time, and place for a hearing;
340 3. Make a reasonable effort to obtain all relevant information, including information as to income
341 and property of the parties;
342 4. Within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written
343 notice in a record from an initiating, responding, or registering tribunal, send a copy of the notice to the
344 petitioner;
345 5. Within two days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written
346 communication in a record from the respondent or the respondent's attorney, send a copy of the
347 communication to the petitioner; and
348 6. Notify the petitioner if jurisdiction over the respondent cannot be obtained.
349 ~~B.~~ C. A support enforcement agency of the Commonwealth that requests registration of a child
350 support order in the Commonwealth for enforcement or for modification shall make reasonable efforts to
351 ensure that:
352 1. The order to be registered is the controlling order; or
353 2. If two or more child support orders exist and the identity of the controlling order has not been
354 determined, a request for such a determination is made in a tribunal having jurisdiction to do so.
355 ~~C.~~ D. A support enforcement agency of the Commonwealth that requests registration and
356 enforcement of a support order, arrears, or judgment stated in a foreign currency shall convert the
357 amounts stated in the foreign currency into the equivalent amounts in U.S. dollars under the applicable
358 official or market exchange rate as publicly reported.
359 ~~D.~~ E. A support enforcement agency of the Commonwealth shall issue or request a tribunal of the
360 Commonwealth to issue a child support order and an income-withholding order that redirects payment of
361 current support, arrears, and interest to a support enforcement agency of the Commonwealth if requested
362 to do so by a support enforcement agency of another state pursuant to § 20-88.62.
363 ~~E.~~ F. This chapter does not create a relationship of attorney and client or other fiduciary relationship
364 between a support enforcement agency or the attorney for the agency and the individual being assisted
365 by the agency.
366 **§ 20-88.51. Duty of Secretary of Health and Human Resources.**

A. If the Secretary of Health and Human Resources determines that the support enforcement agency is neglecting or refusing to provide services to an individual, he may order the agency to perform its duties under this chapter or may provide those services directly to the individual.

B. The Secretary of Health and Human Resources may determine that a foreign country ~~or political subdivision~~ has established a reciprocal arrangement for child support with the Commonwealth and take appropriate action for notification of the determination.

§ 20-88.53. Duties of state information agency.

A. The Department of Social Services is the state information agency under this chapter.

B. The state information agency shall:

1. Compile and maintain a current list, including addresses, of the tribunals in the Commonwealth ~~which that~~ have jurisdiction under this chapter and any support enforcement agencies in the Commonwealth and transmit a copy to the state information agency of every other state;

2. Maintain a register of *names and addresses of* tribunals and support enforcement agencies received from other states;

3. Forward to the appropriate tribunal in the county or city in the Commonwealth in which the obligee who is an individual or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this chapter received from ~~an initiating tribunal or the state information agency of the initiating~~ *another state or a foreign country*; and

4. Obtain information concerning the location of the obligor and the obligor's property within the Commonwealth 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.

§ 20-88.54. Pleadings and accompanying documents.

A. In a proceeding under this chapter, a petitioner seeking to establish a support order, to determine parentage *of a child*, or to register and modify a support order *of a tribunal of another state or a foreign country* shall file a petition. Unless otherwise ordered under § 20-88.55, the petition or accompanying documents shall 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 whose benefit support is sought or whose parentage is to be determined. Unless filed at the time of registration, the petition shall be accompanied by a copy of any support order known to have been issued by another tribunal. The petition may include any other information that may assist in locating or identifying the respondent.

B. The petition shall specify the relief sought. The petition and accompanying documents shall conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

§ 20-88.56. Costs and fees.

A. The petitioner may not be required to pay a filing fee or other costs.

B. If an obligee prevails, a responding tribunal *of the Commonwealth* may assess against an obligor filing fees, reasonable attorney's fees, other costs, and necessary travel and other reasonable expenses incurred by the obligee and the obligee's witnesses. The tribunal may not assess fees, costs, or expenses against the obligee or the support enforcement agency of either the initiating or the responding state *or foreign country*, except as provided by other law. Attorney's fees may be 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.

C. 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 Articles 8 (§ 20-88.66 et seq.) and 9 (§ 20-88.74 et seq.) ~~of this chapter~~, a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

§ 20-88.59. Special rules of evidence and procedure.

A. The physical presence of a nonresident party who is an individual in a tribunal of the Commonwealth 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 that would not be excluded under the hearsay rule if given in person is admissible in evidence if given under penalty of perjury by a party or witness residing ~~in~~ *another state outside the Commonwealth*.

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.

428 D. Copies of bills for testing for parentage *of a child*, and for prenatal and postnatal health care of
429 the mother and child, furnished to the adverse party at least 10 days before trial, are admissible in
430 evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and
431 customary.

432 E. Documentary evidence transmitted from ~~another state~~ *outside the Commonwealth* to a tribunal of
433 the Commonwealth by telephone, telecopier, or other *electronic* means that does not provide an original
434 record may not be excluded from evidence upon an objection based on the means of transmission.

435 F. In a proceeding under this chapter, a tribunal of the Commonwealth shall permit a party or
436 witness residing in ~~another state~~ *outside the Commonwealth* to be deposed or to testify *under penalty of*
437 *perjury* by telephone, audiovisual means, or other electronic means at a designated tribunal or other
438 location in ~~that state~~. A tribunal of the Commonwealth shall cooperate with *other* tribunals of ~~other~~
439 ~~states~~ in designating an appropriate location for the deposition or testimony.

440 G. If a party called to testify at a civil hearing refuses to answer on the ground that the testimony
441 may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.

442 H. A privilege against disclosure of communication between spouses does not apply in a proceeding
443 under this chapter.

444 I. The defense of immunity based on the relationship of husband and wife or parent and child does
445 not apply in a proceeding under this chapter.

446 J. A voluntary acknowledgment of paternity, certified as a true copy, is admissible to establish
447 parentage of the child.

448 **§ 20-88.60. Communications between tribunals.**

449 A tribunal of the Commonwealth may communicate with a tribunal of ~~another state or foreign~~
450 ~~country or political subdivision~~ *outside the Commonwealth* in a record, or by telephone, *electronic mail*,
451 or other means, to obtain information concerning the laws, the legal effect of a judgment, decree, or
452 order of that tribunal; and the status of a proceeding in the ~~other state or foreign country or political~~
453 ~~subdivision~~. A tribunal of the Commonwealth may furnish similar information by similar means to a
454 tribunal of ~~another state or foreign country or political subdivision~~ *outside the Commonwealth*.

455 **§ 20-88.61. Assistance with discovery.**

456 A tribunal of ~~this the~~ Commonwealth may (i) request a tribunal of ~~another state~~ *outside the*
457 *Commonwealth* to assist in obtaining discovery and (ii) upon request, compel a person over ~~whom~~ *which*
458 it has jurisdiction to respond to a discovery order issued by a tribunal of ~~another state~~ *outside the*
459 *Commonwealth*.

460 **§ 20-88.62. Receipt and disbursement of payments.**

461 A. A support enforcement agency or tribunal of the Commonwealth shall disburse promptly any
462 amounts received pursuant to a support order, as directed by the order. The support enforcement agency
463 or tribunal shall furnish to a requesting party or tribunal of another state *or a foreign country* a certified
464 statement by the custodian of the record of the amounts and dates of all payments received.

465 B. If neither the obligor, nor the obligee who is an individual, nor the child resides in the
466 Commonwealth, upon request from the support enforcement agency of the Commonwealth or another
467 state, the support enforcement agency of the Commonwealth or a tribunal of the Commonwealth shall:

468 1. Order that the support payment be made to the support enforcement agency in the state in which
469 the obligee is receiving services; and

470 2. Issue and send to the obligor's employer a conforming income-withholding order or an
471 administrative notice of change of payee, reflecting the redirected payments.

472 C. The support enforcement agency of the Commonwealth receiving redirected payments from
473 another state pursuant to a law similar to subsection B shall furnish to a requesting party or tribunal of
474 the other state a certified statement by the custodian of the record of the amount and dates of all
475 payments received.

476 **Article 6.**

477 **Establishment of Support Order or Determination of Parentage.**

478 **§ 20-88.63. Establishment of support order.**

479 A. If a support order entitled to recognition under this chapter has not been issued, a responding
480 tribunal of the Commonwealth *with personal jurisdiction over the parties* may issue a support order if
481 (i) the individual seeking the order resides in ~~another state~~ *outside the Commonwealth* or (ii) the support
482 enforcement agency seeking the order is located in ~~another state~~ *outside the Commonwealth*.

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

485 1. A presumed father of the child;

486 2. Petitioning to have his paternity adjudicated;

487 3. Identified as the father of the child through genetic testing;

488 4. An alleged father who has declined to submit to genetic testing;

489 5. Shown by clear and convincing evidence to be the father of the child;

6. An acknowledged father as provided by applicable state law;
 7. The mother of the child; or
 8. An individual who has been ordered to pay child support in a previous proceeding and the order has not been reversed or vacated.

C. Upon finding, after notice and opportunity to be heard, that an obligor owes a duty of support, the tribunal shall issue a support order directed to the obligor and may issue other orders pursuant to § 20-88.48.

§ 20-88.63:1. Proceeding to determine parentage.

A tribunal of the Commonwealth authorized to determinate parentage of a child may serve as a responding tribunal in a proceeding to determine parentage of a child brought under this chapter or a law or procedure substantially similar to this chapter.

Article 7.

Enforcement of Order of Another State Without Registration.

§ 20-88.64. Employer's receipt of income-withholding order of another state.

An income-withholding order issued by a tribunal in another state may be sent by or on behalf of the obligee, or by the support enforcement agency, to the person or entity defined as the obligor's employer as defined in § 63.2-1900 under the income-withholding law of the Commonwealth without first filing a petition or comparable pleading or registering the order with a tribunal of the Commonwealth.

§ 20-88.64:3. Immunity from civil liability.

An employer ~~who~~ that complies with an income-withholding order issued in another state in accordance with this article is not subject to civil liability to ~~any~~ *an* individual or agency with regard to the employer's withholding child support from the obligor's income.

§ 20-88.64:4. Penalties for noncompliance.

An employer ~~who~~ that willfully fails to comply with an income-withholding order issued by in 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~~ *the* Commonwealth.

§ 20-88.65. Administrative enforcement of orders.

A. A party or support enforcement agency seeking to enforce a *foreign support order, or a* support order or an income-withholding order, or both, issued by a tribunal of in another state, may send the documents required for registering the order to a support enforcement agency of ~~this~~ *the* Commonwealth.

B. Upon receipt of the documents, the support enforcement agency, without initially seeking to register the order, shall consider and, if appropriate, use any administrative procedure authorized by the law of ~~this~~ *the* Commonwealth to enforce a support order or an income-withholding order, or both. If the obligor does not contest administrative enforcement, the order need not be registered. If the obligor contests the validity or administrative enforcement of the order, the support enforcement agency shall register the order pursuant to this chapter.

§ 20-88.66. Registration of order for enforcement.

A foreign support order, or a support order or an income-withholding order issued by a tribunal of in another state, may be registered in ~~this~~ *the* Commonwealth for enforcement.

§ 20-88.67. Procedure to register order for enforcement.

A. *Except as provided in § 20-88.88, a foreign support order or a* support order or income-withholding order of another state may be registered in the Commonwealth by sending the following records and information to the appropriate tribunal in the Commonwealth:

1. A letter of transmittal to the tribunal requesting registration and enforcement;
2. Two copies, including one certified copy, of the order to be registered, including any modification of the order;
3. A sworn statement by the party requesting registration or a certified statement by the custodian of the records showing the amount of any arrearage;
4. The name of the obligor and, if known, (i) the obligor's address and social security number, (ii) the name and address of the obligor's employer and any other source of income of the obligor, and (iii) a description and the location of property of the obligor in the Commonwealth not exempt from execution; and

5. Except as otherwise provided in § 20-88.55, the name and address of the obligee and, if applicable, the support enforcement agency to whom support payments are to be remitted.

B. On receipt of a request for registration, the registering tribunal shall cause the order to be filed as *an order of a tribunal of another state or a* foreign support order, together with one copy of the documents and information, regardless of their form.

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

551 D. If two or more orders are in effect, the individual or support enforcement agency requesting
552 registration shall:

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

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

556 3. Specify the amount of consolidated arrears, if any.

557 E. A request for a determination of which is the controlling order may be filed separately or with a
558 request for registration and enforcement or for registration and modification. The individual or support
559 enforcement agency requesting registration shall give notice of the request to each party whose rights
560 may be affected by the determination.

561 **§ 20-88.68. Effect of registration for enforcement.**

562 A. A support order or income-withholding order issued in another state *or a foreign support order* is
563 registered when the order is filed in the registering tribunal of ~~this~~ the Commonwealth.

564 B. A registered *support* order issued in another state *or in a foreign country* is enforceable in the
565 same manner and is subject to the same procedures as an order issued by a tribunal of ~~this~~ the
566 Commonwealth.

567 C. Except as otherwise provided in this ~~article~~ *chapter*, a tribunal of ~~this~~ the Commonwealth shall
568 recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

569 **§ 20-88.69. Choice of law; statute of limitations.**

570 A. Except as otherwise provided in subsection D, the law of the issuing state *or foreign country*
571 governs (i) the nature, extent, amount, and duration of current payments under a registered support
572 order; (ii) the computation and payment of arrearages and accrual of interest on the arrearages under the
573 support order; and (iii) the existence and satisfaction of other obligations under the support order.

574 B. In a proceeding for arrears under a registered support order, the statute of limitations of the
575 Commonwealth or of the issuing state *or foreign country*, whichever is longer, applies.

576 C. A responding tribunal of the Commonwealth shall apply the procedures and remedies of the
577 Commonwealth to enforce current support and collect arrears and interest due on a support order of
578 another state *or a foreign country* registered in the Commonwealth.

579 D. After a tribunal of the Commonwealth or another state determines which is the controlling order
580 and issues an order consolidating arrears, if any, a tribunal of the Commonwealth shall prospectively
581 apply the law of the state *or foreign country* issuing the controlling order, including its law on interest
582 on arrears, on current and future support, and on consolidated arrears.

583 **§ 20-88.70. Notice of registration of order; contest of validity or enforcement.**

584 A. When a support order or income-withholding order issued in another state *or a foreign support*
585 *order* is registered, the registering tribunal *of the Commonwealth* shall notify the nonregistering party.
586 The notice shall be accompanied by a copy of the registered order and the documents and relevant
587 information accompanying the order.

588 B. A notice shall inform the nonregistering party:

589 1. That a registered order is enforceable as of the date of registration in the same manner as an order
590 issued by a tribunal of the Commonwealth;

591 2. That a hearing to contest the validity or enforcement of the registered *mail* order shall be
592 requested within 20 days after the notice *unless the registered order is under § 20-88.89*;

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

596 4. Of the amount of any alleged arrearages.

597 C. If the registering party asserts that two or more orders are in effect, a notice shall also:

598 1. Identify the two or more orders and the order alleged by the ~~registering individual or support~~
599 ~~enforcement agency or individual party~~ to be the controlling order and the consolidated arrears, if any;

600 2. Notify the nonregistering party of the right to a determination of which is the controlling order;

601 3. State that the procedures provided in subsection B apply to the determination of which is the
602 controlling order; and

603 4. State that failure to contest the validity or enforcement of the order alleged to be the controlling
604 order in a timely manner may result in confirmation that the order is the controlling order.

605 D. Upon registration of an income-withholding order for enforcement, the *support enforcement*
606 *agency or the* registering tribunal shall notify the obligor's employer pursuant to the income-withholding
607 for support law of the Commonwealth.

608 **§ 20-88.71. Procedure to contest validity or enforcement of registered support order.**

609 A. A nonregistering party seeking to contest the validity or enforcement of a registered *support* order
610 in ~~this~~ the Commonwealth shall request a hearing within ~~twenty days after notice of the registration the~~
611 ~~time required by § 20-88.70~~. The nonregistering party may seek to vacate the registration, to assert any
612 defense to an allegation of noncompliance with the registered order, or to contest the remedies being

sought or the amount of any alleged arrearages pursuant to § 20-88.72.

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

C. If a nonregistering party requests a hearing to contest the validity or enforcement of the registered *support* 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.

§ 20-88.72. Contest of registration or enforcement.

A. A party contesting the validity or enforcement of a registered *support* order or seeking to vacate the registration has the burden of proving one or more of the following defenses:

1. The issuing tribunal lacked personal jurisdiction over the contesting party;
2. The order was obtained by fraud;
3. The order has been vacated, suspended, or modified by a later order;
4. The issuing tribunal has stayed the order pending appeal;
5. There is a defense under the law of the Commonwealth to the remedy sought;
6. Full or partial payment has been made;
7. The statute of limitations under § 20-88.69 precludes enforcement of some or all of the alleged arrearages; or
8. The alleged controlling order is not the controlling order.

B. If a party presents evidence establishing a full or partial defense under subsection A, a tribunal may stay enforcement of ~~the a~~ registered *support* order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered *support* order may be enforced by all remedies available under the law of the Commonwealth.

C. If the contesting party does not establish a defense under subsection A to the validity or enforcement of ~~the a~~ registered *support* order, the registering tribunal shall issue an order confirming the order.

§ 20-88.73. Confirmed order.

Confirmation of a registered *support* order, whether by operation of law or after notice and hearing, precludes further contest of the *support* order with respect to any matter that could have been asserted at the time of registration.

§ 20-88.75. Effect of registration for modification.

A tribunal of the Commonwealth 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 the Commonwealth, but the registered *support* order may be modified only if the requirements of § 20-88.76, or 20-88.77:1 ~~or 20-88.77:3~~ have been met.

§ 20-88.76. Modification of child support order of another state.

A. If § 20-88.77:1 does not apply, ~~except as otherwise provided in § 20-88.77:3,~~ upon petition a tribunal of the Commonwealth may modify a child support order, issued in another state, that is registered in the Commonwealth if, after notice and hearing, the tribunal finds that:

1. The following requirements are met:
 - a. Neither the child, nor the obligee who is an individual, nor the obligor resides in the issuing state;
 - b. A petitioner who is a nonresident of the Commonwealth seeks modification; and
 - c. The respondent is subject to the personal jurisdiction of the tribunal of the Commonwealth; or
2. The Commonwealth is the ~~state of~~ residence of the child or a party who is an individual is subject to the personal jurisdiction of the tribunal of the Commonwealth and all of the individual parties who are individuals have filed consents in a record in the issuing tribunal for a tribunal of the Commonwealth to modify the support order and assume continuing, exclusive jurisdiction.

B. 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 the Commonwealth and the order may be enforced and satisfied in the same manner.

C. ~~Except as otherwise provided in § 20-88.77:3,~~ A tribunal of the Commonwealth 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 shall be so recognized under § 20-88.41 establishes the aspects of the support order which are nonmodifiable.

D. 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 the Commonwealth.

E. On issuance of an order by a tribunal of the Commonwealth modifying a child support order issued in another state, the tribunal of the Commonwealth becomes the tribunal having continuing, exclusive jurisdiction.

674 *F. Notwithstanding subsections A through E and § 20-88.35, a tribunal of the Commonwealth retains*
675 *jurisdiction to modify an order issued by a tribunal of the Commonwealth if one party resides in*
676 *another state and the other party resides outside the United States.*

677 **§ 20-88.77:3. Jurisdiction to modify child support order of foreign country.**

678 *A. If Except as provided in § 20-88.93, if a foreign country ~~or political subdivision~~ that is a state*
679 *will not ~~or may not~~ lacks or refuses to exercise jurisdiction to modify its child support order pursuant to*
680 *its laws, a tribunal of the Commonwealth may assume jurisdiction, for good cause shown as ordered, to*
681 *modify the child support order and bind all individuals subject to the personal jurisdiction of the tribunal*
682 *whether or not the consent to modification of a child support order otherwise required of the individual*
683 *pursuant to § 20-88.76 has been given or whether the individual seeking modification is a resident of the*
684 *Commonwealth or of the foreign country ~~or political subdivision~~.*

685 *B. An order issued by a tribunal of the Commonwealth modifying a foreign child support order*
686 *pursuant to this section is the controlling order.*

687 **Article 13.**

688 **Support Proceeding under Hague Convention.**

689 **§ 20-88.83. Definitions.**

690 *As used in this article:*

691 *"Application" means a request under the Hague Convention on the International Recovery of Child*
692 *Support and Other Forms of Family Maintenance by an obligee or obligor, or on behalf of a child,*
693 *made through a central authority for assistance from another central authority.*

694 *"Central authority" means the entity designated by the United States or a foreign country described*
695 *in § 20-88.32 to perform the functions specified in the Convention.*

696 *"Convention support order" means a support order of a tribunal of a foreign country described in*
697 *§ 20-88.32.*

698 *"Direct request" means a petition or similar pleading filed by an individual in a tribunal of the*
699 *Commonwealth in a proceeding involving an obligee, obligor, or child residing outside the United*
700 *States.*

701 *"Foreign central authority" means the entity designated by a foreign country described in § 20-88.32*
702 *to perform the functions specified in the Convention.*

703 *"Foreign support agreement" means an agreement for support in a record that (i) is enforceable as*
704 *a support order in the country of origin; (ii) has been formally drawn up or registered as an authentic*
705 *instrument by a foreign tribunal or authenticated by or concluded, registered, or filed with a foreign*
706 *tribunal; and (iii) may be reviewed and modified by a foreign tribunal. "Foreign support agreement"*
707 *includes a maintenance arrangement or authentic instrument under the Convention.*

708 *"United States central authority" means the Secretary of the U.S. Department of Health and Human*
709 *Services.*

710 **§ 20-88.84. Applicability.**

711 *This article applies only to a support proceeding under the Convention. In such a proceeding, if a*
712 *provision of this article is inconsistent with Articles 1 through 9 (§ 20-88.32 et seq.), this article*
713 *controls.*

714 **§ 20-88.85. Relationship of Department of Social Services to United States central authority.**

715 *The Department of Social Services of the Commonwealth is recognized as the agency designated by*
716 *the United States central authority to perform specific functions under the Convention.*

717 **§ 20-88.86. Initiation by Department of Social Services of support proceeding under convention.**

718 *A. In a support proceeding under this chapter, the Department of Social Services of the*
719 *Commonwealth shall:*

720 *1. Transmit and receive applications; and*

721 *2. Initiate or facilitate the institution of a proceeding regarding an application in a tribunal of the*
722 *Commonwealth.*

723 *B. The following support proceedings are available to an obligee under the Convention:*

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

725 *2. Enforcement of a support order issued or recognized in the Commonwealth;*

726 *3. Establishment of a support order if there is no existing order, including, if necessary,*
727 *determination of parentage of a child;*

728 *4. Establishment of a support order if recognition of a foreign support order is refused under*
729 *subdivision B 2, 4, or 9 of § 20-88.90;*

730 *5. Modification of a support order of a tribunal of the Commonwealth; and*

731 *6. Modification of a support order of a tribunal of another state or a foreign country.*

732 *C. The following support proceedings are available under the Convention to an obligor against*
733 *which there is an existing support order:*

734 *1. Recognition of an order suspending or limiting enforcement of an existing support order of a*
735 *tribunal of the Commonwealth;*

2. Modification of a support order of a tribunal of the Commonwealth; and
 3. Modification of a support order of a tribunal of another state or a foreign country.
 D. A tribunal of the Commonwealth may not require security, bond, or deposit, however described, to guarantee the payment of costs and expenses in proceedings under the Convention.

§ 20-88.87. Direct request.

A. A petitioner may file a direct request seeking establishment or modification of a support order or determination of parentage of a child. In the proceeding, the law of the Commonwealth applies.

B. A petitioner may file a direct request seeking recognition and enforcement of a support order or support agreement. In the proceeding, §§ 20-88.88 through 20-88.95 apply.

C. In a direct request for recognition and enforcement of a Convention support order or foreign support agreement:

1. A security, bond, or deposit is not required to guarantee the payment of costs and expenses; and
 2. An obligee or obligor that in the issuing country has benefited from free legal assistance is entitled to benefit, at least to the same extent, from any free legal assistance provided for by the law of the Commonwealth under the same circumstances.

D. A petitioner filing a direct request is not entitled to assistance from the Department of Social Services.

E. This chapter does not prevent the application of laws of the Commonwealth that provide simplified, more expeditious rules regarding a direct request for recognition and enforcement of a foreign support order or foreign support agreement.

§ 20-88.88. Registration of Convention support order.

A. Except as otherwise provided in this chapter, a party who is an individual or a support enforcement agency seeking recognition of a Convention support order shall register the order in the Commonwealth as provided in Article 9 (§ 20-88.74 et seq.).

B. Notwithstanding § 20-88.54 and subsection A of § 20-88.67, 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 the Commonwealth may vacate the registration of a Convention support order without the filing of a contest under § 20-88.89 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.

§ 20-88.89. Contest of registered convention support order.

A. Except as otherwise provided in this chapter, §§ 20-88.71, 20-88.72, and 20-88.73 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 non-registering party fails to contest the registered Convention support order within the time period 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 § 20-88.90. The contesting party bears the burden of proof.

E. In a contest of a registered Convention support order, a tribunal of the Commonwealth:

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 the Commonwealth deciding a contest of a registered Convention support order shall promptly notify the parties of its decision.

797 G. A challenge or appeal, if any, does not stay the enforcement of a Convention support order unless
798 there are exceptional circumstances.

799 **§ 20-88.90. Recognition and enforcement of registered convention support order.**

800 A. Except as otherwise provided in subsection B, a tribunal of the Commonwealth shall recognize
801 and enforce a registered Convention support order.

802 B. The following grounds are the only grounds on which a tribunal of the Commonwealth may refuse
803 recognition and enforcement of a registered Convention support order:

804 1. Recognition and enforcement of the order is manifestly incompatible with public policy, including
805 the failure of the issuing tribunal to observe minimum standards of due process, which include notice
806 and an opportunity to be heard;

807 2. The issuing tribunal lacked personal jurisdiction consistent with § 20-88.35;

808 3. The order is not enforceable in the issuing country;

809 4. The order was obtained by fraud in connection with a matter of procedure;

810 5. A record transmitted in accordance with § 20-88.88 lacks authenticity or integrity;

811 6. A proceeding between the same parties and having the same purpose is pending before a tribunal
812 of the Commonwealth and that proceeding was the first to be filed;

813 7. The order is incompatible with a more recent support order involving the same parties and having
814 the same purpose if the more recent support order is entitled to recognition and enforcement under this
815 chapter in the Commonwealth;

816 8. Payment, to the extent alleged arrears have been paid in whole or in part;

817 9. In a case in which the respondent neither appeared nor was represented in the proceeding in the
818 issuing foreign country:

819 a. If the law of that country provides for prior notice of proceedings, the respondent did not have
820 proper notice of the proceedings and an opportunity to be heard; or

821 b. If the law of that country does not provide for prior notice of the proceedings, the respondent did
822 not have proper notice of the order and an opportunity to be heard in a challenge or appeal on fact or
823 law before a tribunal; or

824 10. The order was made in violation of § 20-88.93.

825 C. If a tribunal of the Commonwealth does not recognize a Convention support order under
826 subdivision B 2, 4, or 9:

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

829 2. The Department of Social Services shall take all appropriate measures to request a child support
830 order for the obligee if the application for recognition and enforcement was received under § 20-88.86.

831 **§ 20-88.91. Partial enforcement.**

832 If a tribunal of the Commonwealth does not recognize and enforce a Convention support order in its
833 entirety, it shall enforce any severable part of the order. An application or direct request may seek
834 recognition and partial enforcement of a Convention support order.

835 **§ 20-88.92. Foreign support agreement.**

836 A. Except as otherwise provided in subsections C and D, a tribunal of the Commonwealth shall
837 recognize and enforce a foreign support agreement registered in the Commonwealth.

838 B. An application or direct request for recognition and enforcement of a foreign support agreement
839 must be accompanied by:

840 1. A complete text of the foreign support agreement; and

841 2. A record stating that the foreign support agreement is enforceable as an order of support in the
842 issuing country.

843 C. A tribunal of the Commonwealth may vacate the registration of a foreign support agreement only
844 if, acting on its own motion, the tribunal finds that recognition and enforcement would be manifestly
845 incompatible with public policy.

846 D. In a contest of a foreign support agreement, a tribunal of the Commonwealth may refuse
847 recognition and enforcement of the agreement if it finds that:

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

849 2. The agreement was obtained by fraud or falsification;

850 3. The agreement is incompatible with a support order involving the same parties and having the
851 same purpose in the Commonwealth, another state, or a foreign country if the support order is entitled
852 to recognition and enforcement under this chapter in the Commonwealth; or

853 4. The record submitted under subsection B lacks authenticity or integrity.

854 E. A proceeding for recognition and enforcement of a foreign support agreement must be suspended
855 during the pendency of a challenge to or appeal of the agreement before a tribunal of another state or
856 a foreign country.

857 **§ 20-88.93. Modification of Convention child support order.**

858 A. A tribunal of the Commonwealth may not modify a Convention child support order if the obligee

859 remains a resident of the foreign country where the support order was issued unless:

860 1. The obligee submits to the jurisdiction of a tribunal of the Commonwealth, either expressly or by
861 defending on the merits of the case without objecting to the jurisdiction at the first available
862 opportunity; or

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

865 B. If a tribunal of the Commonwealth does not modify a Convention child support order because the
866 order is not recognized in the Commonwealth, subsection C of § 20-88.90 applies.

867 **§ 20-88.94. Personal information; limit on use.**

868 Personal information gathered or transmitted under this article may be used only for the purposes
869 for which it was gathered or transmitted.

870 **§ 20-88.95. Record in original language; English translation.**

871 A record filed with a tribunal of the Commonwealth under this article must be in the original
872 language and, if not in English, must be accompanied by an English translation.

873 2. That Articles 10 (§ 20-88.78) and 12 (§§ 20-88.81 and 20-88.82) of Chapter 5.3 of Title 20 of the
874 Code of Virginia are repealed.

875 3. That an emergency exists and this act is in force from its passage.