

Family Law & Practice: The Paralegal's Guide

Grace A. Luppino
Justine FitzGerald Miller

PEARSON EDUCATION, INC.

CUSTOM EDITION
Family Law & Practice

The Paralegal's Guide

Grace A. Luppino Justine FitzGerald Miller

Taken from:

Family Law & Practice: The Paralegal's Guide
by Grace A. Luppino and Justine FitzGerald Miller



Taken from:

Family Law & Practice: The Paralegal's Guide, Fourth Edition by Grace A. Luppino and Justine FitzGerald Miller. Copyright © 2002 by Pearson Education, Inc. Published by Prentice Hall, Inc. Upper Saddle River, New Jersey 07458

All rights reserved. No part of this book may be reproduced, in any form or by any means, without permission in writing from the publisher.

This special edition published in cooperation with Pearson Custom Publishing.

All trademarks, service marks, registered trademarks, and registered service marks are the property of their respective owners and are used herein for identification purposes only.

Printed in the United States of America

10 9 8 7 6 5 4 3 2 1

ISBN 0-536-17399-0

2005932114

EH

Please visit our web site at www.pearsoncustom.com



PEARSON CUSTOM PUBLISHING
75 Arlington Street, Suite 300, Boston, MA 02116
A Pearson Education Company



DEDICATION

This book is dedicated to Margaretann Antonelli, my niece Grace, and my nephews Rocco and Jhonnatan, and to my legal mentors: Elizabeth Gleason, Herbert L. Grayson, Mary Moers Wenig, Patricia Buck Wolf, and Gerald Zuckerman.

Grace A. Luppino

Dedicated to my children, Justine and George.

Justine FitzGerald Miller

This page intentionally left blank

C O N T E N T S

PREFACE	xvii
ACKNOWLEDGMENTS	xix

CHAPTER 1

INTRODUCTION TO FAMILY LAW PRACTICE	1
FAMILY LAW THEORY	2
FAMILY LAW PRACTICE	3
Court Procedures	3
Office Procedures	3
APPLYING FAMILY LAW THEORY TO FAMILY LAW PRACTICE	3
Settlement	4
Mediation	4
THE FAMILY PRACTITIONER'S ROLE IN THE DISSOLUTION PROCESS	5
REVIEW QUESTIONS & EXERCISES	6

CHAPTER 2

THE ROOTS AND TRADITIONS OF AMERICAN FAMILY LAW	7
MARRIAGE, DIVORCE, AND FAMILY LAW FROM COLONIAL AMERICA TO THE TWENTIETH CENTURY	8
The Industrial Revolution and the Family	9
FAMILY LAW FROM THE DAWN OF THE TWENTIETH CENTURY TO THE PRESENT DAY	11
TYPES OF ACTIONS IN THE AREA OF FAMILY LAW	11
Breach of Promise to Marry	12
Alienation of Affection	16
Common Law Marriage Dissolutions	16
Annulment	17

Legal Separation	23
Separate Maintenance	24
Paternity Actions	24
THE TRANSITION TO CONTEMPORARY FAMILY LAW	
THEORY AND PRACTICE	24
REVIEW QUESTIONS & EXERCISES	27

CHAPTER 3

ETHICS IN FAMILY LAW	28
AUTHORIZED PRACTICE OF LAW	29
UNAUTHORIZED PRACTICE OF LAW	30
UPL Violations	32
RULES OF ETHICS	36
OVERVIEW OF BASIC ETHICAL PRINCIPLES	39
Confidentiality	39
Conflict of Interest	41
Communicating with Opposing Party	46
The <i>Pro Se</i> Litigant	47
Competence	47
Fees	49
Solicitation	52
EXHIBITS	53
REVIEW QUESTIONS & EXERCISES	59

CHAPTER 4

PRENUPTIAL AGREEMENTS, COHABITATION, AND SAME-SEX MARRIAGE	60
PRENUPTIAL AGREEMENTS	61
Introduction	61
Legal Requirements of a Valid Prenuptial Agreement	64
Acquiring the Necessary Documentation	64
Who Should Have a Prenuptial Agreement?	65
Know Your State Law	65
The Intent of the Parties Must Be Clear	66
Compliance with the Statute of Frauds	66
Adequate Disclosure	66
Advice of Independent Counsel	67

Fairness	67
Assessing the Client's Position Regarding the Enforceability of the Prenuptial Agreement	68
The Contract Must Be Entered Into Voluntarily	68
Jurisdiction	68
Unenforceable Provisions	69
COHABITATION	69
Introduction	69
Why Cohabitation?	69
<i>Marvin v. Marvin</i>	70
SAME-SEX MARRIAGE	72
Introduction	72
Domestic Partnerships	72
Marriage Statutes	73
The Legal Battle for Recognition of Same-Sex Marriage	73
The Fourteenth Amendment Argument	74
The State Equal Rights Amendment Argument	74
EXHIBIT	81
REVIEW QUESTIONS & EXERCISES	82
CHAPTER 5	
ALIMONY	83
HISTORY OF ALIMONY	84
Ecclesiastical Courts	84
Origins of the Alimony Award	85
Alimony in Early America	86
ALIMONY AWARDS IN A NO-FAULT SETTING	86
DETERMINING ALIMONY	90
RESOURCES FOR ALIMONY	93
DETERMINING SPOUSAL NEED	94
BALANCING PROPERTY DIVISION, CHILD SUPPORT, AND ALIMONY	94
TYPES OF ALIMONY	95
Pendente Lite Alimony	95
Final Orders	96
MODES OF ALIMONY PAYMENT	103
MODIFICATION OF ALIMONY	103

ESCALATION CLAUSES AND COST-OF-LIVING INCREASE CLAUSES	105
MEDICAL INSURANCE	105
ATTORNEY'S FEES	106
TERMINATION OF ALIMONY	107
Remarriage	107
Cohabitation	107
Death	107
TAX CONSEQUENCES OF ALIMONY	108
The IRS Recapture Rule	108
Family Support Payments versus Separate Payments of Alimony and Child Support	108
Effects of Bankruptcy on Alimony, Child Support, and Property Division	109
PRACTICAL TIPS FOR CLIENTS	109
ENFORCEMENT OF COURT-ORDERED PAYMENTS	110
ATTORNEY'S FEES IN CONTEMPT ACTIONS	111
REVIEW QUESTIONS & EXERCISES	112
CHAPTER 6	
PROPERTY AND DEBT DISTRIBUTION	113
BASIC PRINCIPLES OF PROPERTY	114
PROPERTY AND DEBT DISTRIBUTION UPON MARITAL DISSOLUTION	115
THE DISTINCTION BETWEEN SEPARATE AND MARITAL PROPERTY	120
VALUATION OF ASSETS	123
RETAINING EXPERTS FOR VALUATION OF PROPERTY	124
EFFECT OF PRENUPTIAL AGREEMENTS ON PROPERTY DISTRIBUTION	125
RESOLVING THE ISSUE OF PROPERTY DISTRIBUTION: CONTESTED OR UNCONTESTED	125
JURISDICTIONAL APPROACHES TO PROPERTY DISTRIBUTION	126
Equitable Distribution	126
Community Property	127

THE NOT-SO-OBVIOUS ASSETS OF MARRIAGE	129
Goodwill	130
Pensions	132
Professional Degree	135
DISTRIBUTION OF THE MARITAL DEBTS	138
DISSIPATION OF MARITAL ASSETS	139
EXHIBIT	142
REVIEW QUESTIONS & EXERCISES	144


CHAPTER 7

CHILD CUSTODY, VISITATION, AND RIGHTS OF THIRD PARTIES	145
A HISTORICAL PERSPECTIVE ON CUSTODY	146
The Age of Paternal Dominance	146
The Shift to Maternal Control	146
THE TENDER YEARS DOCTRINE	147
EQUALIZING THE CUSTODIAL PLAYING FIELD: THE TRANSITION FROM “TENDER YEARS” TO “BEST INTEREST”	148
THE BEST INTEREST STANDARD AS THE ULTIMATE DETERMINANT	149
THE BROADER RESULTS OF APPLYING THE BEST INTEREST STANDARD	149
JOINT CUSTODY	149
TYPES OF JOINT CUSTODY	150
Joint Custody with Physical Custody in One Parent	150
Shared Physical Joint Custody	150
Split Custody	150
HOW TO DETERMINE WHAT IS IN THE CHILD’S BEST INTEREST	153
FACTORS CONSIDERED IN DETERMINING BEST INTEREST	153
Psychological Parent	154
Primary Caregiver	154
Child’s Preference	155
Parents’ Physical and Mental Health	156

Religion	156
Parental Conduct	156
VISITATION RIGHTS	160
RIGHTS OF THIRD PARTIES	161
STATUS OF UNMARRIED PARENTS AND THEIR RIGHTS AND RESPONSIBILITIES	163
The Absent Parent	164
Challenges to Child Support Orders	165
Paternity Issues	165
REVIEW QUESTIONS & EXERCISES	166


CHAPTER 8

CHILD SUPPORT	167
CHILD SUPPORT GUIDELINES: FEDERALLY MANDATED REQUIREMENTS	168
DETERMINING EACH PARENT'S OBLIGATION FOR CHILD SUPPORT	169
MODIFICATION OF CHILD SUPPORT ORDERS	171
CHILD SUPPORT ENFORCEMENT	173
Civil Enforcement	173
Administrative Enforcement	174
Interstate Enforcement of Child Support Obligations	175
SEPARATION OF CHILD SUPPORT OBLIGATION FROM THE RIGHT TO VISITATION	176
ASPECTS OF SUPPORT ORDERS	177
POSTMAJORITY CHILD SUPPORT	177
EXHIBITS	179
REVIEW QUESTIONS & EXERCISES	188


CHAPTER 9

THE CLIENT INTERVIEW	189
THE PARALEGAL'S ROLE IN THE INITIAL SCREENING PROCESS	189
PREPARING FOR THE CLIENT INTERVIEW	191
Understanding the Emotional Aspects of Divorce	191
Developing a Relationship of Trust and Confidence	192
Developing Good Listening Skills	192
Preinterview Preparations	193

THE CLIENT INTERVIEW	193
The Client's Arrival	193
The Actual Interview	193
REFERRING CLIENT TO SUPPORT SERVICES	195
REFERRALS FOR CHILDREN	196
CONDUCTING THE INITIAL INTERVIEW	196
MAINTAINING A HIGH DEGREE OF PROFESSIONALISM	197
PREPARING FOR THE CLIENT INTERVIEW	198
FUNDAMENTALS OF CLIENT INTERVIEWING IN THE FAMILY LAW OFFICE	198
OBTAINING ESSENTIAL INFORMATION FROM THE CLIENT	199
REPRESENTING THE DEFENDANT SPOUSE	204
Preparing Releases	204
THE RETAINER LETTER	205
EXHIBITS	207
REVIEW QUESTIONS & EXERCISES	223


CHAPTER 10

INITIAL AND RESPONSIVE PLEADINGS	224
PROCESSING THE DISSOLUTION ACTION	225
INITIAL PLEADINGS IN A DISSOLUTION ACTION	226
The Pleadings	226
The Complaint	226
Form of the Dissolution Complaint	226
Preprinted Complaint Form	229
Pre-return Date Relief	229
TEMPORARY RESTRAINING ORDER	230
SERVICE OF PROCESS OF THE DIVORCE COMPLAINT	231
RESPONSIVE PLEADINGS TO THE DISSOLUTION COMPLAINT	232
THE APPEARANCE AND THE ANSWER	233
THE CROSS-COMPLAINT	234
EXHIBITS	235
REVIEW QUESTIONS & EXERCISES	253

CHAPTER 11	PENDENTE LITE MOTIONS AND ORDERS	255
	<i>PENDENTE LITE MOTIONS</i>	256
	ANATOMY OF A MOTION	256
	Caption	257
	Body	257
	Subscription	257
	Order	258
	Certification	259
	MOST FREQUENTLY USED FAMILY LAW MOTIONS	260
	Motion for Alimony	260
	Motion for Custody of Minor Children	260
	Motion for Child Support	261
	Motion for Visitation	262
	Motion for Counsel Fees	262
	Motion for Exclusive Possession of the Marital Residence	262
	Motion for Use of Motor Vehicle	262
	Motion for Payment of Mortgage and Insurance Premiums	263
	Restraining Orders	263
	THE PARALEGAL'S ROLE IN FACILITATING <i>PENDENTE LITE</i> MATTERS	263
	DOCKET CONTROL SYSTEM	265
	MOTIONS FOR CONTEMPT AND MODIFICATION	266
	Contempt	266
	Modification	266
	EXHIBITS	267
	REVIEW QUESTIONS & EXERCISES	288
CHAPTER 12	THE DISCOVERY PROCESS IN FAMILY LAW	289
	DISCOVERY TOOLS	290
	Interrogatories	290
	Requests for Production	293
	Request for Physical or Psychiatric Examination	294

Request for Admission	296
Depositions	297
Noticing of Nonparty Witnesses	299
Motion for Disclosure of Assets	300
The Financial Affidavit	301
EXHIBITS	304
REVIEW QUESTIONS & EXERCISES	315


CHAPTER 13

SEPARATION AGREEMENTS	317
MERGER OF SEPARATION AGREEMENT INTO THE COURT'S DECREE	319
ADVANTAGES OF REACHING AN AGREEMENT	319
PARALEGAL'S ROLE IN DRAFTING THE SEPARATION AGREEMENT	320
FINALIZING THE SEPARATION AGREEMENT	321
BASIC CLAUSES AND STRUCTURE OF THE SEPARATION AGREEMENT	321
Heading	322
Identification	322
Recitals	322
Irretrievable Breakdown	323
Separation of the Parties	323
Alimony	324
Real Property	324
Personal Property	325
Custody and Visitation	326
Child Support	326
Health Insurance	327
Liabilities	327
Taxes	328
Disclosure	328
Representation of the Parties	329
Miscellaneous Clauses	329
Signature Provisions	330
Acknowledgment	331
REVIEW QUESTIONS & EXERCISES	332

CHAPTER 14	THE DIVORCE TRIAL	333
	UNCONTESTED HEARING	334
	CONTESTED HEARING	336
	THE PARALEGAL'S ROLE IN TRIAL PREPARATION	338
	DAY OF THE TRIAL	341
	EXHIBITS	342
	REVIEW QUESTIONS & EXERCISES	362
CHAPTER 15	POSTJUDGMENT DIVORCE MATTERS	363
	NONMODIFIABLE TERMS OF THE DISSOLUTION DECREE	364
	MODIFIABLE TERMS OF THE DISSOLUTION DECREE	364
	Modification of Alimony	364
	Modification of Child Support	367
	Modification of Custody and Visitation	368
	RELOCATION OF CUSTODIAL PARENT	368
	ENFORCEMENT OF COURT ORDERS	369
	KIDNAPPING AND CROSSING STATE LINES	370
	EXHIBITS	373
	REVIEW QUESTIONS & EXERCISES	381
CHAPTER 16	STATE INTERVENTION IN FAMILY MATTERS	382
	INTEGRITY OF THE FAMILY	382
	STATES' OBLIGATIONS TO PROTECT CHILDREN	383
	DETECTING CHILD NEGLECT AND CHILD ABUSE	383
	Investigation of a Complaint of Child Neglect or Child Abuse	384
	SERVICE AGREEMENT APPROACH	384
	ORDER OF TEMPORARY CUSTODY	385
	EFFORTS FOR REUNIFICATION OF THE CHILD WITH THE PARENTS	385
	Specific Steps	386
	Extension of Commitment	386

	TERMINATION OF PARENTAL RIGHTS	387
	Voluntary Termination of Parental Rights	387
	Involuntary Termination of Parental Rights	387
	Grounds for Termination of Parental Rights	388
	Consideration of the Child's Best Interests	388
	ADOPTION	388
	Agency Adoptions	388
	Public Adoption Agencies	389
	Private Adoption Agencies	389
	Private Adoptions	389
	REVIEW QUESTIONS & EXERCISES	390
APPENDIX A	UNIFORM PREMARITAL AGREEMENT ACT	391
APPENDIX B	QUALIFIED DOMESTIC RELATIONS ORDER (JIM CARREY)	394
APPENDIX C	STATE OF CONNECTICUT CHILD SUPPORT AND ARREARAGE GUIDELINES	407
APPENDIX D	UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT (AS AMENDED IN 1952 AND 1958)	427
APPENDIX E	REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT (1968)	434
APPENDIX F	UNIFORM INTERSTATE FAMILY SUPPORT ACT (1996)	444
APPENDIX G	RESTRAINING ORDER (ROSEANNE)	464
APPENDIX H	MARITAL SETTLEMENT AGREEMENT (MADONNA AND SEAN PENN)	475
APPENDIX I	UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT (1997)	494
APPENDIX J	GUIDES FOR DISTANCE LEARNING AND LEGAL RESEARCH	510
APPENDIX K	FINDING STATE LAW	514
	GLOSSARY	517
	INDEX	529

This page intentionally left blank

P R E F A C E

This book evolved from the need to have an understandable, interesting, and relevant textbook from which to teach and a book that would prepare paralegal students to respond successfully to the numerous demands in a real-world family law practice.

The goal of this book is to thoroughly prepare students in the areas of family law that they are most likely to encounter in the real world. Therefore, the major emphasis in this book is on the theoretical, procedural, and practical aspects of the divorce process with its attendant issues such as alimony, property distribution, child custody, and child support, as well as other matters arising after the divorce occurs, such as postjudgment modifications of orders for custody, child support, and alimony.

The book is logically ordered to guide the student through the various theories underlying family law and the procedures that translate these theories into practice. There is a balance between chapters on theory and chapters that focus on practice. For instance, Chapter 1, "Introduction to Family Law Practice," addresses the practical aspects of working as a paralegal in a family law practice. Chapter 2, "The Roots and Traditions of American Family Law," provides an historical backdrop for the emergence of the changing and evolving theory of family law, including the changing views on the nature of marriage, and the role of women and children in a family.

Chapter 3, "Ethics in Family Law," presents a mix of theory and practice in that it outlines the legal professional code of ethics and how it applies to a family law setting. This chapter includes cases involving paralegals who violated various rules of ethics such as the divorce paralegal who slept with the client's husband and revealed confidential information regarding the case to him during the course of their affair.

Chapter 4 deals with the issues of prenuptial agreements, cohabitation and same-sex marriage. Chapters 5 through 8 provide a black letter law overview of the four major areas encountered in the practice of family law: alimony, property and debt distribution, child custody, and child support. Along with a recitation of the rules, these chapters provide the theoretical justification for each rule and also provide excerpts of interesting and entertaining cases that demonstrate how some courts apply the legal principles of family law to decide disputes over the myriad of issues these areas embrace.

Chapters 9 through 15 focus exclusively on practice and the paralegal's role in the process. These chapters contain examples of the type of documents prepared throughout the divorce process. These chapters also present model complaints, motions, orders, and agreements which the paralegal can modify to the requirements of his or her jurisdiction. Also included

are selections of legal documents filed by celebrities, for example, Lucille Ball's divorce complaint against Desi Arnaz. The appendixes include Madonna and Sean Penn's separation agreement.

Finally, Chapter 16 addresses the issue of state intervention in family matters, such as child abuse and neglect, termination of parental rights, and adoption.

Although this book is national in scope, we have tried to provide cases, statutes, and forms from various jurisdictions. However, the need for students to become familiar with and knowledgeable about the law, procedure, and documents in their own jurisdiction is paramount. This need is addressed in the end-of-chapter exercises that require students to go out in the field—to their courthouses and law libraries—and acquire hands-on experience with their jurisdiction's statutes, cases, forms, and procedural rules.

It is our hope that this book will be a long-time companion to the paralegal student who finds employment in a family law practice.

Grace A. Luppino
Justine FitzGerald Miller

A C K N O W L E D G M E N T S

We wish to thank the following people for their support and encouragement in making this book a reality:

Dana Meltzer and Elizabeth Sugg at Prentice Hall; our colleagues and students at Branford Hall Career Institute and Briarwood College; Dawn A. Chuley for her expertise on distance learning and Internet research; Heather Bell for preparing the transparencies and distance learning portion of this book and her expertise on Internet research; Connie Luppino for her photocopying; Margaretann Antonelli for her many errands and meals; Katharine Hunt for her expertise and assistance in preparing the final manuscript; our friends and families; and to the following paralegal students for their legal research: Diane Allen, Sherrian Benson, Kelly Butler, Christy Cash, Domenica Colavolpe, Laurie Coppola, Raymond Daley, Lori DiGiovanni, Connie Esposito, Mia Garmizo, Andrew Gister, Cheryl Granoff, Joann Gleason, Gail LaGreca, Deanna Lozowski, Susan McClintock, Linda McCue, Cynthia McQueen, Mary Notarangelo, Joann O'Leary, Melanie Rieder, Margaret Sabilla, Christine Van Vliet, and Elizabeth Young.

Our special thanks to paralegal Pamela Robicheau for her countless hours of legal research, editing, and preparation of the manuscript. This book could not have been completed without her hard work, expertise, and devotion to this project.

Special thanks to the American Bar Association, the National Association of Legal Associates, Inc., W. Kelsea Wilbur Eckert, and the National Conference of Commissioners on Uniform State Laws for their permission to reprint documents in this book.

Grace A. Luppino
Justine FitzGerald Miller

This page intentionally left blank

A P P E N D I X



UNIFORM PREMARITAL AGREEMENT ACT

1. DEFINITIONS

As used in this Act:

- (1) 'Premarital agreement' means an agreement between prospective spouses made in contemplation of marriage and to be effective upon marriage.
- (2) 'Property' means an interest, present or future, legal or equitable, vested or contingent, in real or personal property, including income and earnings.

2. FORMALITIES

A premarital agreement must be in writing and signed by both parties. It is enforceable without consideration.

3. CONTENT

- (a) Parties to a premarital agreement may contract with respect to:
 - (1) the rights and obligations of each of the parties in any of the property of either or both of them whenever and wherever acquired or located;
 - (2) the right to buy, sell, use, transfer, exchange, abandon, lease, consume, expend, assign, create a security interest in, mortgage, encumber, dispose of, or otherwise manage and control property;
 - (3) the disposition of property upon separation, marital dissolution, death, or the occurrence or nonoccurrence of any other event;
 - (4) the modification or elimination of spousal support;
 - (5) the making of a will, trust, or other arrangement to carry out the provisions of the agreement;

- (6) the ownership rights in and disposition of the death benefit from a life insurance policy;
 - (7) the choice of law governing the construction of the agreement; and
 - (8) any other matter, including their personal rights and obligations, not in violation of public policy or a statute imposing a criminal penalty.
- (b) The right of a child to support may not be adversely affected by a premarital agreement.

4. EFFECTS OF MARRIAGE

A premarital agreement becomes effective upon marriage.

5. AMENDMENT, REVOCATION

After marriage, a premarital agreement may be amended or revoked only by a written agreement signed by the parties. The amended agreement or the revocation is enforceable without consideration.

6. ENFORCEMENT

- (a) A premarital agreement is not enforceable if the party against whom enforcement is sought proves that:
- (1) that party did not execute the agreement voluntarily; or
 - (2) the agreement was unconscionable when it was executed and, before execution of the agreement, that party:
 - (i) was not provided a fair and reasonable disclosure of the property or financial obligations of the other party;
 - (ii) did not voluntarily and expressly waive, in writing, any right to disclosure of the property or financial obligations of the other party beyond the disclosure provided; and
 - (iii) did not have, or reasonably could not have had, an adequate knowledge of the property or financial obligations of the other party.
- (b) If a provision of a premarital agreement modifies or eliminates spousal support and that modification or elimination causes one party to the agreement to be eligible for support under a program of public assistance at the time of the agreement, may require the other party to provide support to the extent necessary to avoid that eligibility.
- (c) An issue of unconscionability of a premarital agreement shall be decided by the court as a matter of law.

7. ENFORCEMENT: VOID MARRIAGE

If a marriage is determined to be void, an agreement that would otherwise have been a premarital agreement is enforceable only to the extent necessary to avoid an inequitable result.

8. LIMITATION OF ACTIONS

Any statute of limitations applicable to an action asserting a claim for relief under a premarital agreement is tolled during the marriage of the parties to the agreement. However, equitable defenses limiting the time for enforcement, including laches and estoppel, are available to either party.

9. APPLICATION AND CONSTRUCTION

This [Act] shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this [Act] among states enacting it.

10. SHORT TITLE

This [Act] may be cited as the Uniform Premarital Agreement Act.

This is the customary 'short title' clause, which may be placed in that order in the bill for enactment as the legislative practice of the state prescribes.

11. SEVERABILITY

If any provisions of this [Act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can be given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.

12. TIME OF TAKING EFFECT

This [Act] takes effect _____ and applies to any premarital agreement expected on or after that date.

13. REPEAL

The following acts and parts of acts are repealed:

- (a)
- (b)
- (c)

Used with permission of National Conference of Commissioners on Uniform State Laws.

B

A P P E N D I X

**QUALIFIED DOMESTIC RELATIONS ORDER
(JIM CARREY)**

1 Paul L. Basile, Jr.
2 (State Bar No. 050078)
3 Attorney at Law
4 11400 West Olympic Boulevard, Ninth Floor
5 Los Angeles, California 90064-1507
6 Telephone: (310) 478-2114

7 Special Tax Counsel

FILED
LOS ANGELES SUPERIOR COURT

X JUN 1 4 1994

EDWARD M. WHITMAN, CLERK

R. A. Belmonte
BY R. A. BELMONTE, DEPUTY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES

10
11 In Re the Marriage of:

12 JAMES EUGENE CARREY,

13 Petitioner,

14 and

15 MELISSA JANE CARREY,

16 Respondent.

Case No: BD 135 499

STIPULATED QUALIFIED
DOMESTIC RELATIONS ORDER
RE AFTRA RETIREMENT PLAN

17
18 WHEREAS, Petitioner, JAMES EUGENE CARREY, and Respondent, MELISSA
19 JANE CARREY, were married to each other on March 28, 1987, and separated on June 15,
20 1993;

21 WHEREAS, this Court has personal jurisdiction over both Petitioner and
22 Respondent and jurisdiction over the subject matter of this Order and this dissolution of
23 marriage action;

24 WHEREAS, Petitioner, Respondent, and the Court intend that this Order
25 shall be a Qualified Domestic Relations Order (a "QDRO") as that term is used in the
26 Retirement Equity Act of 1984, P.L. No. 98-397 (the "Act"); and

27 WHEREAS, Petitioner and Respondent have stipulated that the Court shall
28 enter the following Order:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE COURT as

follows:

1. As used in this Order, the following terms shall apply:
 - a. "Participant" refers to the Petitioner, JAMES EUGENE CARREY, whose last known address is c/o JOHN RIGNEY, RIGNEY/FRIEDMAN BUSINESS MANAGEMENT, 12400 Wilshire Boulevard, Suite 850, Los Angeles, California 90025, whose social security number is 570-77-5581, and whose date of birth is January 17, 1962.
 - b. "Alternate Payee" refers to the Respondent, MELISSA JANE CARREY, whose last known address is c/o JOHN RIGNEY, RIGNEY/FRIEDMAN BUSINESS MANAGEMENT, 12400 Wilshire Boulevard, Suite 850, Los Angeles, California 90025, whose social security number is 527-17-8130, and whose date of birth is July 8, 1960.
 - c. "Plan" refers to the AFTRA RETIREMENT PLAN, as amended, the Trustee of which is the Board of Trustees of the AFTRA RETIREMENT PLAN, and the assets of which are currently held by said Trustee.
 - d. "Plan Administrator" refers to the Board of Trustees of the AFTRA RETIREMENT PLAN.
2. The Alternate Payee is the spouse of Participant until the herein marriage has been dissolved.
3. This order is entered pursuant to the California Family Law Act, Section 2500 *et seq.* of the California Family Law Code.
4. The Alternate Payee shall be entitled to share in the benefits of the Plan as follows:
 - a. The Alternate Payee shall receive a monthly pension, commencing on the date when the Participant attains Normal Retirement Age (as defined in the Plan) in an amount equal to one-half (1/2) of the

1 Participant's accrued benefit as of the date of separation (June 15, 1993) to
2 which the Participant would be entitled on normal retirement age computed
3 on a single life annuity basis and multiplied by a fraction, the numerator of
4 which is the number of months of the Participant's participation in the Plan
5 between the date of marriage (March 28, 1987) and the date of separation
6 (June 15, 1993), and the denominator of which is the total number of months
7 of the Participant's participation in the Plan as of the Participant's Normal
8 Retirement Age. If the Participant retires earlier than at Normal Retirement
9 Age, the date of the Participant's actual retirement shall be used in the
10 foregoing calculation in place of Normal Retirement Age.

11 b. If the Participant dies before payments have commenced
12 to the Alternate Payee, then, whether or not the Participant is survived by a
13 spouse (other than the Alternate Payee) and whether or not the Participant
14 has met the eligibility requirements for a pension, the Alternate Payee shall
15 receive monthly payments in an amount equal to the monthly amount payable
16 to a surviving spouse under the Plan, if any, multiplied by a fraction, the
17 numerator of which is the number of months of the Participant's participation
18 in the Plan between the dates of marriage and separation, and the
19 denominator of which is the total number of months of the Participant's
20 participation in the Plan as of the time of the Participant's death. The
21 remainder of the monthly amount payable under the Plan, and no more, shall
22 be paid to the Participant's spouse or designated beneficiary, as the case may
23 be.

24 c. With respect to the Alternate Payee's entitlements under
25 Paragraph 4(a) above, the amount thereof shall be calculated on the basis of
26 a single life annuity with the Participant's life as the measuring life, but the
27 Alternate Payee may elect to have the Alternate Payee's share paid to the
28 Alternate Payee in actuarially adjusted monthly amounts over the Alternate

1 Payee's lifetime. If the Alternate Payee does not so elect, payments to the
2 Alternate Payee shall cease on the Participant's death. If the Alternate Payee
3 does not so elect and the Alternate Payee predeceases the Participant, the
4 remaining payments of the Alternate Payee's entitlement, if any, shall be
5 made to the beneficiary designated by the Alternate Payee in writing and filed
6 with the Plan Administrator, provided that any such beneficiary qualifies as
7 an alternate payee of the Participant pursuant to ERISA §206(d)(3)(K).
8 Similarly, if the Alternate Payee predeceases the Participant and dies before
9 payments have commenced, the Alternate Payee's entitlement, if any, shall be
10 paid to the Alternate Payee's designated beneficiary or beneficiaries and in
11 the form designated by the Alternate Payee in writing and filed with the Plan
12 Administrator, such payment to be made at the time it would have been made
13 to the Alternate Payee if the Alternate Payee were still living, provided that
14 any such beneficiary qualifies as an alternate payee of the Participant
15 pursuant to ERISA §206(d)(3)(K).

16 d. Notwithstanding any provision of the Plan, payment of
17 benefits to the Alternate Payee shall not be suspended by reason of the
18 Participant's returning to covered employment after retiring.

19 5. At the Alternate Payee's election, the Alternate Payee may receive the
20 Alternate Payee's benefits at the earliest time permissible under the Plan consistent with the
21 methods set forth in this Order. If such election is made prior to the Participant's date of
22 retirement, the date when the Alternate Payee makes the election shall be used in place of
23 the Participant's date of retirement in calculating the denominator of the fraction expressed
24 in Section 4(a) of this Order. If the Alternate Payee dies before making such election and
25 before payments have commenced to the Alternate Payee, such election may be made by
26 the Alternate Payee's designated beneficiary, provided that any such beneficiary qualifies
27 as an alternate payee of the Participant pursuant to ERISA §206(d)(3)(K).


28 6. The Participant and the Alternate Payee shall be separately responsible

1 for income taxes attributable to the payments received by each of them under the Plan.

2 7. This Order is intended to be a QDRO made pursuant to the Act, has
3 been determined to be a QDRO by the signature of the Plan Administrator below, and its
4 provisions shall be administered and interpreted in conformity with the Act. If the Act is
5 amended or the law regarding QDROs is otherwise changed or modified, then the parties
6 hereto shall immediately take such steps as are necessary to amend this QDRO to comply
7 with any such changes, amendments, or modification to the Act or laws regarding QDROs.


8 8. The Court shall retain jurisdiction over this matter to amend this Order
9 in order to establish and/or maintain its qualification as a QDRO under the Act and to
10 carry out the terms and conditions of this Order.

11
12 Dated: 4/20/94



JAMES EUGENE CARREY, Petitioner

13
14 Dated: 4/20/94




MELISSA JANE CARREY, Respondent

15
16 APPROVED AS TO FORM AND CONTENT:

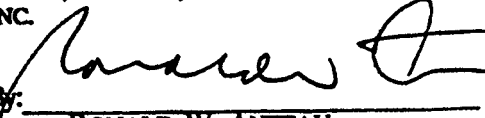
17 Dated: 4/26/94

LAW OFFICES OF NORMAN M. DOLIN

18
19 By: 

NORMAN M. DOLIN
Attorney for Petitioner,
JAMES EUGENE CARREY

20
21 Dated: 4/20/94

22 SIMKE, CHODOS, SILBERFELD & ANTEAU,
INC.
23
24 By: 

RONALD W. ANTEAU,
Attorney for Respondent,
MELISSA JANE CARREY

25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

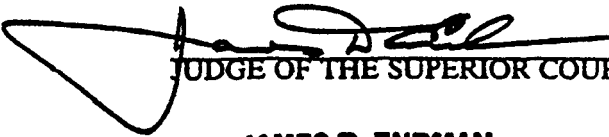
Dated: 6-1-94

Board of Trustees of the
AFTRA RETIREMENT PLAN

By: 
Plan Administrator

THE CLERK IS ORDERED TO ENTER THIS ORDER.

Dated: JUN 14 1994


JUDGE OF THE SUPERIOR COURT

JAMES D. ENDMAN
Judge Pro Tem

1 Paul L. Basile, Jr.
2 (State Bar No. 050078)
3 Attorney at Law
4 11400 West Olympic Boulevard, Ninth Floor
5 Los Angeles, California 90064-1507
6 Telephone: (310) 478-2114
7
8 Special Tax Counsel
9

FILED
LOS ANGELES SUPERIOR COURT
MAY 26 1994
EDWARD M. KRITZMAN, CLERK
R.A. Belmonte
BY R. A. BELMONTE, DEPUTY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF LOS ANGELES
10

11 In Re the Marriage of:
12 JAMES EUGENE CARREY,
13 Petitioner,
14 and
15 MELISSA JANE CARREY,
16 Respondent.

Case No: BD 135 499

STIPULATED QUALIFIED
DOMESTIC RELATIONS ORDER
RE SCREEN ACTORS GUILD-
PRODUCERS PENSION PLAN

17
18 WHEREAS, Petitioner, JAMES EUGENE CARREY, and Respondent, MELISSA
19 JANE CARREY, were married to each other on March 28, 1987, and separated on June 15,
20 1993;

21 WHEREAS, this Court has personal jurisdiction over both Petitioner and
22 Respondent and jurisdiction over the subject matter of this Order and this dissolution of
23 marriage action;

24 WHEREAS, Petitioner, Respondent, and the Court intend that this Order
25 shall be a Qualified Domestic Relations Order (a "QDRO") as that term is used in the
26 Retirement Equity Act of 1984, P.L. No. 98-397 (the "Act"); and

27 WHEREAS, Petitioner and Respondent have stipulated that the Court shall
28 enter the following Order:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE COURT as follows:

1. As used in this Order, the following terms shall apply:

a. "Participant" refers to the Petitioner, JAMES EUGENE CARREY, whose last known address is c/o JOHN RIGNEY, RIGNEY/FRIEDMAN BUSINESS MANAGEMENT, 12400 Wilshire Boulevard, Suite 850, Los Angeles, California 90025, whose social security number is 570-77-5581, and whose date of birth is January 17, 1962.

b. "Alternate Payee" refers to the Respondent, MELISSA JANE CARREY, whose last known address is c/o JOHN RIGNEY, RIGNEY/FRIEDMAN BUSINESS MANAGEMENT, 12400 Wilshire Boulevard, Suite 850, Los Angeles, California 90025, whose social security number is 527-17-8130, and whose date of birth is July 8, 1960.

c. "Plan" refers to the SCREEN ACTORS GUILD-PRODUCERS PENSION PLAN, as amended (a non-contributory defined benefit plan), the Trustee of which is the Board of Trustees of the SCREEN ACTORS GUILD-PRODUCERS PENSION PLAN, and the assets of which are currently held by said Trustee.

d. "Plan Administrator" refers to BRUCE L. DOW, or his successor duly appointed by the Trustee.

2. The Alternate Payee is the spouse of Participant until the herein marriage has been dissolved.

3. This order is entered pursuant to the California Family Law Act, Section 2500 *et seq.* of the California Family Law Code.

4. The Alternate Payee shall be entitled to share in the benefits of the Plan as follows:

a. The Alternate Payee shall receive a monthly pension, commencing on the date when the Participant retires under the Plan in an

1 amount equal to one-half (1/2) of the monthly pension to which the
2 Participant would be entitled on that date computed on a single life annuity
3 basis and multiplied by a fraction, the numerator of which is the number of
4 years of Pension Credit (as defined in the Plan) earned by the Participant
5 between the date of marriage (March 28, 1987) and the date of separation
6 (June 15, 1993), and the denominator of which is the total number of years
7 of the Participant's Pension Credit at the Participant's date of retirement. In
8 computing the numerator, the Pension Credit for the year of marriage and the
9 year of separation shall be prorated on a daily basis.

10 b. With respect to the Alternate Payee's entitlement under
11 Section 4(a) of this Order, the amount thereof shall be calculated on the basis
12 of a single life annuity with the Participant's life as the measuring life and
13 shall be paid to the Alternate Payee in actuarially adjusted monthly amounts
14 over the Alternate Payee's lifetime. If the Alternate Payee dies before the
15 Alternate Payee has received sixty (60) monthly payments, monthly payments
16 shall be made to the beneficiary or beneficiaries designated by the Alternate
17 Payee in writing and filed with the Plan Administrator until a total of sixty
18 (60) monthly payments have been made. If no beneficiary declaration is on
19 file at the Alternate Payee's death or if no designated beneficiary survives
20 until the Alternate Payee's entitlement is paid in full, the unpaid balance of
21 the Alternate Payee's entitlement shall be paid to the Alternate Payee's
22 estate.

23 c. If the Participant dies before payments have commenced
24 to the Alternate Payee, then, whether or not the Participant is survived by a
25 Qualified Spouse (as defined in the Plan), the Alternate Payee (or the
26 Alternate Payee's designated beneficiary if the Alternate Payee shall have
27 predeceased the Participant) shall receive an amount equal to one-half (1/2)
28 of the Death Benefit (as defined below) multiplied by a fraction the

1 numerator of which is the same as the numerator expressed in Section 4(a)
2 of this Order and the denominator of which is the total number of Pension
3 Credit at the Participant's death. The Death Benefit shall be the amount
4 described in Section 1(a) of Article V of the Plan if the Participant dies
5 before attaining age sixty-five (65) or the amount described in Section 1(b) of
6 Article V of the Plan if the Participant dies after attaining age sixty-five (65).
7 In either case, the amount payable to the Alternate Payee (or the Alternate
8 Payee's beneficiary) shall be paid in a lump sum or in monthly installments
9 as the Alternate Payee (or the Alternate Payee's beneficiary) shall elect in
10 accordance with said Sections of the Plan; provided, however, that if the
11 amount of the Alternate Payee's entitlement is \$3,500 or less, it shall be
12 payable only in a lump sum.

13 5. Notwithstanding the provisions of Section 9 of Article VIII of the Plan,
14 payment of benefits to the Alternate Payee shall not be suspended by reason of the
15 Participant's returning to covered employment after retiring.

16 6. At the Alternate Payee's election, the Alternate Payee may receive the
17 Alternate Payee's benefits at the earliest time permissible under the Plan consistent with the
18 methods set forth in this Order. If such election is made prior to the Participant's date of
19 retirement, the date when the Alternate Payee makes the election shall be used in place of
20 the Participant's date of retirement in calculating the denominator of the fraction expressed
21 in Section 4(a) of this Order. If the Alternate Payee dies before making such election and
22 before payments have commenced to the Alternate Payee, such election may be made by
23 the Alternate Payee's designated beneficiary.

24 7. The Participant and the Alternate Payee shall be separately responsible
25 for income taxes attributable to the payments received by each of them under the Plan.

26 8. This Order is intended to be a QDRO made pursuant to the Act, has
27 been determined to be a QDRO by the signature of the Plan Administrator below, and its
28 provisions shall be administered and interpreted in conformity with the Act. If the Act is

1 amended or the law regarding QDROs is otherwise changed or modified, then the parties
2 hereto shall immediately take such steps as are necessary to amend this QDRO to comply
3 with any such changes, amendments, or modification to the Act or laws regarding QDROs.

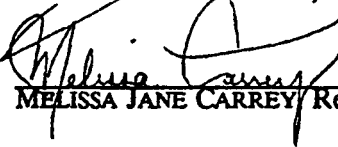
4 9. The Court shall retain jurisdiction over this matter to amend this Order
5 in order to establish and/or maintain its qualification as a QDRO under the Act and to
6 carry out the terms and conditions of this Order.

7
8 Dated: 4/20/94



JAMES EUGENE CARREY, Petitioner

9
10 Dated: 4/20/94




MELISSA JANE CARREY, Respondent

11
12 APPROVED AS TO FORM AND CONTENT:

13 Dated: 4/26/94

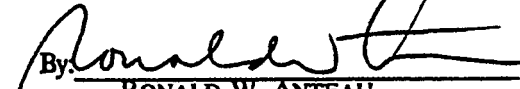
LAW OFFICES OF NORMAN M. DOLIN

By: 

NORMAN M. DOLIN
Attorney for Petitioner,
JAMES EUGENE CARREY

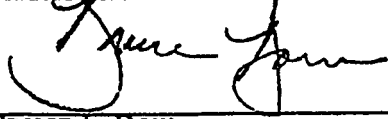
14
15
16
17 Dated: 4/20/94

SIMKE, CHODOS, SILBERFELD & ANTEAU,
INC.

By: 

RONALD W. ANTEAU,
Attorney for Respondent,
MELISSA JANE CARREY

18
19
20
21
22 Dated: 5/19/94



BRUCE L. DOW,
Plan Administrator

23
24
25
26
27
28

1 THE CLERK IS ORDERED TO ENTER THIS ORDER.

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: MAY 26 1994



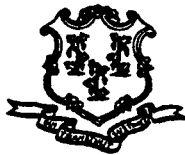
JUDGE OF THE SUPERIOR COURT

JAMES D. ENDMAN
Judge Pro Tem

A P P E N D I X  **C**

**STATE OF CONNECTICUT CHILD SUPPORT
AND ARREARAGE GUIDELINES**

State of Connecticut



**Child Support
and
Arrearage Guidelines**

**Issued by the
Commission for
Child Support Guidelines**

**Pursuant to § 46b-215a of the
Connecticut General Statutes**

Effective June 1, 1994

- (4) "Child" means an unemancipated individual who has not attained the age of eighteen years, and includes "children" where the context so requires.
- (5) "Child support guidelines" means the rules, principles, schedule, and worksheets established under these regulations for the determination of the appropriate level of current support for a child, to be used when establishing both temporary and permanent orders, whether in the initial determination of a child support order or a modification of an existing order.
- (6) "Current support" means an amount for the ongoing support of a child.
- (7) "Custodial parent" means the parent who provides the child's primary residence.
- (8) "Dependent" means a spouse or child for whom an obligor is legally responsible pursuant to section 46b-215 of the Connecticut General Statutes.
- (9) "Deviation criteria" means those facts or circumstances described in sections 46b-215a-3 and 46b-215a-5 of these regulations which, if specifically found on the record by the trier of fact, may be sufficient to rebut the presumption created by the child support and/or arrearage guidelines.
- (10) "Effective self-support reserve" means the portion of the net income of a low-income obligor which, subject to section 46b-215a-3 of these regulations, is generally not obligated for current support payments. The amount represents a level of retained income greater than the minimum self-support reserve, and is incorporated in the schedule to ensure that at low income levels, as an obligor's income increases, the entire amount of additional earnings is not obligated for current support payments.
- (11) "Gross income" means the average weekly income before deductions.
- (A) Inclusions
- Gross income includes, but is not limited to:
- (i) salary and wages, including overtime
 - (ii) commissions, bonuses, tips and perquisites
 - (iii) rental income after deduction of reasonable and necessary expenses
 - (iv) estate or trust income
 - (v) royalties
 - (vi) interest, dividends, and annuities

- (vii) social security (excluding Supplemental Security Income (SSI)), veterans, unemployment and workers' compensation, retirement, pension, and other benefits
- (viii) net proceeds from contractual agreements
- (ix) self-employment earnings, after deduction of all legitimate business expenses
- (x) alimony being paid by an individual who is not a party to the support determination
- (xi) unearned income from all sources
- (xii) in-kind compensation (any basic maintenance or special need such as food, shelter, or transportation provided on a recurrent basis in lieu of salary).

(B) Exclusions

Gross income does not include:

- (i) support received on behalf of a child who is living in the home of the parent whose income is being determined
 - (ii) federal, state, and local public assistance grants.
- (12) "Imputed support obligation" means a theoretical obligation computed for given children in accordance with the child support guidelines, the amount of which is used in the calculation of arrearage payments under section 46b-215a-4 of these regulations.
- (13) "Low-income obligor" means an obligor whose current support obligation is generally determined without considering the other parent's income (using the darker shaded area of the schedule), in order to ensure that such obligor retains a self-support reserve.
- (14) "Minimum self-support reserve" means the portion of an obligor's net income which is generally not obligated for current support or arrearage payments under these regulations. The amount represents a minimal level of income to allow the obligor to provide for his or her own support, and is set at \$.145 per week.
- (15) "Net income" means gross income minus allowable deductions.
- (16) "Noncustodial parent" means a parent who does not provide the child's primary residence.
- (17) "Obligor" means a parent who is ordered to pay current child support and/or arrearage payments in accordance with these regulations.
- (18) "Schedule" means the Connecticut Child Support Guidelines Schedule of Basic Child Support Obligations included in section 46b-215a-2 of these regulations.

- (19) "Shared custody" means a situation in which the parents share the physical care and control of the child.
- (20) "Split custody" means a situation in which there is more than one child in common and each parent is the custodial parent of at least one of the children.
- (21) "Title IV-D" means the provisions of the federal Social Security Act which require states to implement a child support enforcement program.

Section 46b-215a-2. Child support guidelines

(a) Applicability

This section shall be used in the determination of all child support award amounts within the state effective June 1, 1994. When the parents' combined net weekly income exceeds \$1,750, awards shall be determined on a case-by-case basis, and the amount of support prescribed at the \$1,750 level shall be the minimum presumptive level.

(b) Determining the amount of support

This subsection applies when one parent or a third party has primary custody of all children whose support is being determined, except as provided in subsection (c) in this section. The line references throughout this subsection are to Worksheet A, which is intended for use with the following instructions. Worksheet A is included in these regulations as Appendix A. Use one worksheet in most cases. When there is a third party custodian and either parent is a low-income obligor (as determined in this subsection), complete a separate Worksheet A for each parent. All money amounts may be rounded to the nearest dollar. When rounding, round up for amounts of 5 or more and down for amounts less than 5.

(1) Determine the net weekly income of the noncustodial parent(s)

Follow the instructions in this subdivision to determine the net weekly income of the noncustodial parent. Enter all amounts on Worksheet A in the column corresponding to the noncustodial parent.

- (A) Enter the gross income on line 1.
- (B) Enter the number of allowable exemptions on line 2. Use this number to determine the appropriate income tax deductions.
- (C) Enter all allowable deductions on lines 3-9. Add the amounts entered on lines 3-9 and enter the result on line 10.
- (D) Subtract the line 10 amount from the line 1 amount and enter the result on line 11. This is the net weekly income of the noncustodial parent.

(2) Determine the basic child support obligation

Follow the instructions below in the order presented to determine the basic child support obligation using the Schedule of Basic Child Support Obligations found in subsection (d) of this section.

- (A) Find the block in the schedule which corresponds to the income level of the noncustodial parent (rounded to the nearest ten dollars (\$10.00)) and the number of children whose support is being determined.
- (i) If this block is in the darker shaded area of the schedule and the amounts shown are not in parentheses, the noncustodial parent is a low-income obligor. The dollar amount shown in the block is the noncustodial parent's basic child support obligation. Enter this amount on line 13, place a check mark on line 14, and proceed to subdivision (3) in this subsection.
 - (ii) If this block is in the darker shaded area of the schedule and the amounts shown are enclosed in parentheses, the noncustodial parent is a low-income obligor. Proceed to subparagraph (B) in this subdivision to determine the basic child support obligation, unless the custodial parent has no income. In that case, follow step (i) above.
 - (iii) If this block is not in the darker shaded area of the schedule, the noncustodial parent is not a low-income obligor. Proceed to subparagraph (C) in this subdivision to determine the basic child support obligation.
- (B) Determine the net weekly income of the custodial parent, following the same instructions as used to determine the net weekly income of the noncustodial parent. Add this amount to the noncustodial parent's net weekly income, and round to the nearest ten dollars (\$10.00). The result is the combined net weekly income. Enter this amount on line 12. Find the block in the schedule which corresponds to the combined net weekly income and the number of children whose support is being determined. Compare the percentage shown in this block to the percentage shown in the block found in step (ii) of subparagraph (A).
- (i) If the percentage shown in the darker shaded block is lower than the percentage in this block, the dollar amount shown in the darker shaded block is the noncustodial parent's basic support obligation. Enter this amount on line 13, place a check mark on line 14, and proceed to subdivision (3) in this subsection.
 - (ii) If the percentage shown in the darker shaded block is higher than the percentage in this block, proceed to subparagraph (C), immediately following.

- (C) Determine the net weekly income of the custodial parent, following the same instructions as used to determine the net weekly income of the noncustodial parent. Add this amount to the noncustodial parent's net weekly income, and round to the nearest ten dollars (\$10.00). The result is the combined net weekly income. Enter this amount on line 12. Find the block in the schedule which corresponds to the combined net weekly income and the number of children whose support is being determined.

The dollar amount shown in this block is the basic child support obligation of both parents for the support of all children. Enter this amount on line 13 and proceed to subdivision (3), immediately following.

- (3) Determine the total child support obligation

Follow the instructions in this subdivision to determine the amount of the total child support obligation. Except in the case of a low-income obligor, the total child support obligation is the basic child support obligation obtained from the schedule plus the cost of health insurance premiums for coverage of the children whose support is being determined. In the case of a low-income obligor, the obligor's total child support obligation is the basic child support obligation reduced by the amount paid by such obligor for health insurance premiums for the subject children.

- (A) Determine health insurance premium amounts

Determine the amount of any medical, hospital, dental, or health insurance premiums paid by either or both parents for coverage of the children whose support is being determined. Only amounts actually attributable to the subject children are considered. If any such amount is unknown or cannot be verified, the total cost of the premium is divided by the total number of persons covered by the policy and then multiplied by the number of subject children covered by the policy. The parent requesting an adjustment for health insurance premium costs shall submit proof that the children are enrolled in an insurance plan and proof of the cost of the premium. Enter the premium amounts in the appropriate columns on line 15.

- (B) Add to basic obligation (parents other than low-income obligors)

Unless line 14 is checked, add the sum of the line 15 amounts to the line 13 amount and enter the result on line 16. This is the total child support obligation of both parents for all children whose support is being determined.

- (C) Subtract from basic obligation (low-income obligors only)

If line 14 is checked, subtract the line 15 amount paid by the noncustodial parent (low-income obligor) from the line 13 amount and enter the result on line 16. This is the total child support obligation of the low-income obligor.

(4) Determine each parent's share of the total obligation

Each parent's share of the total obligation is determined by calculating each parent's share of the combined net weekly income, and multiplying the result for each parent by the total obligation.

- (A) In the case of a low-income obligor, skip line 17, enter the line 16 amount in the noncustodial parent's column on line 18, and proceed to subdivision (6) in this subsection.
- (B) Determine each parent's share of the combined net weekly income by dividing the line 11 amount for each parent by the line 12 amount. Enter the result (rounded to two decimal places) for each parent on line 17.
- (C) Multiply the line 17 amount for each parent by the line 16 amount. Enter the result for each parent on line 18. These amounts are each parent's share of the total obligation.

(5) Adjust for payment of health insurance premiums

(A) Low-income obligors

In the case of low-income obligors, there is no adjustment for health insurance premiums since the cost was already deducted from the basic obligation in determining the total obligation in subdivision (3) in this subsection. In such cases, therefore, skip line 19 and proceed to subdivision (6).

(B) All other cases

In all other cases, enter on line 19 for each parent the same amount as was entered on line 15.

(6) Adjust for social security benefits

Enter on line 20 in the noncustodial parent's column the weekly amount of any social security benefits payable under such parent's account on behalf of the subject child.

(7) Determine the recommended support amount

The recommended support amount for each parent is determined by subtracting the adjustments for health insurance premiums and social security benefits from each parent's share of the total support obligation.

- (A) Add the line 19 and line 20 amounts for each parent and enter the sum on line 21. These are the total adjustments for each parent.
- (B) Subtract the line 21 amounts from the line 18 amounts for each parent and enter the results on line 22. These are the recommended support amounts for each parent.

(8) Determine the current support order

The current support order shall equal the recommended support amount for the noncustodial parent unless a deviation criterion applies.

- (A) Enter the weekly current support order on line 23 in the noncustodial parent's column. If the line 23 amount differs from the line 22 amount, explain the difference in section VI of Worksheet A.
- (B) The recommended support amount for the custodial parent is not established as an order and is not entered on line 23. The line 22 amount for the custodial parent is retained by the custodial parent and is presumed spent on the children.

(c) Determining the amount of support in split custody situations

In a split custody situation, as defined in section 46b-215a-1 of these regulations, separate obligations are computed for each parent in accordance with subsection (b) in this section, based on the number of children living with the other parent. A separate Worksheet A is used to compute each obligation. The separate obligations are then offset, with the parent owing the greater amount paying the difference to the other parent.

(d) Schedule of basic child support obligations

Following is the schedule to be used for determining the basic child support obligation in accordance with this section. Note that all obligation money amounts have been rounded to the nearest dollar in this schedule.

CONNECTICUT CHILD SUPPORT GUIDELINES SCHEDULE OF BASIC CHILD SUPPORT OBLIGATIONS

NOTE: Noncustodial parent income only for darker shaded areas of schedule; combined parental income for the remainder of the schedule. Use amounts in parentheses only when the percentage in parentheses is lower than the percentage for combined parental income.

COMBINED NET WEEKLY INCOME	1 CHILD		2 CHILDREN		3 CHILDREN		4 CHILDREN		5 CHILDREN		6 CHILDREN	
	%	\$	%	\$	%	\$	%	\$	%	\$	%	\$
150	2.67%	4	2.67%	4	2.67%	4	2.67%	4	2.67%	4	2.67%	4
160	6.88%	11	6.88%	11	6.88%	11	6.88%	11	6.88%	11	6.88%	11
170	10.59%	18	10.59%	18	10.59%	18	10.59%	18	10.59%	18	10.59%	18
180	13.89%	25	13.89%	25	13.89%	25	13.89%	25	13.89%	25	13.89%	25
190	16.84%	32	16.84%	32	16.84%	32	16.84%	32	16.84%	32	16.84%	32
200	(20.00%)	(40)	20.00%	40	20.00%	40	20.00%	40	20.00%	40	20.00%	40
210	(22.86%)	(48)	22.86%	48	22.86%	48	22.86%	48	22.86%	48	22.86%	48
220	(25.45%)	(56)	25.45%	56	25.45%	56	25.45%	56	25.45%	56	25.45%	56
230	25.53%	59	(27.83%)	(64)	27.83%	64	27.83%	64	27.83%	64	27.83%	64
240	25.52%	61	(30.00%)	(72)	30.00%	72	30.00%	72	30.00%	72	30.00%	72
250	25.51%	64	(32.40%)	(81)	32.40%	81	32.40%	81	32.40%	81	32.40%	81
260	25.51%	66	(34.62%)	(90)	(34.62%)	(90)	34.62%	90	34.62%	90	34.62%	90
270	25.50%	69	(36.67%)	(99)	(36.67%)	(99)	(36.67%)	(99)	36.67%	99	36.67%	99
280	25.49%	71	37.57%	105	(38.57%)	(108)	(38.57%)	(108)	38.57%	108	38.57%	108
290	25.49%	74	37.56%	109	(40.34%)	(117)	(40.34%)	(117)	(40.34%)	(117)	40.34%	117
300	25.48%	76	37.56%	113	(42.00%)	(126)	(42.00%)	(126)	(42.00%)	(126)	(42.00%)	(126)
310	25.48%	79	37.55%	116	(43.55%)	(135)	(43.55%)	(135)	(43.55%)	(135)	(43.55%)	(135)
320	25.48%	82	37.54%	120	44.91%	144	(45.00%)	(144)	(45.00%)	(144)	(45.00%)	(144)
330	25.47%	84	37.53%	124	44.91%	148	(46.36%)	(153)	(46.36%)	(153)	(46.36%)	(153)
340	25.46%	87	37.52%	128	44.89%	153	(47.65%)	(162)	(47.65%)	(162)	(47.65%)	(162)
350	25.45%	89	37.49%	131	44.85%	157	(48.86%)	(171)	(48.86%)	(171)	(48.86%)	(171)
360	25.43%	92	37.46%	135	44.81%	161	49.51%	178	(50.00%)	(180)	(50.00%)	(180)
370	25.41%	94	37.44%	139	44.77%	166	49.47%	183	(51.08%)	(189)	(51.08%)	(189)
380	25.40%	97	37.41%	142	44.74%	170	49.44%	188	(52.11%)	(198)	(52.11%)	(198)
390	25.38%	99	37.39%	146	44.71%	174	49.40%	193	(53.08%)	(207)	(53.08%)	(207)
400	25.37%	101	37.37%	149	44.68%	179	49.37%	197	53.52%	214	(54.00%)	(216)
410	25.36%	104	37.34%	153	44.65%	183	49.34%	202	53.48%	219	(54.88%)	(225)
420	25.34%	106	37.32%	157	44.62%	187	49.31%	207	53.45%	224	(55.71%)	(234)
430	25.33%	109	37.30%	160	44.60%	192	49.28%	212	53.42%	230	(56.51%)	(243)
440	25.32%	111	37.28%	164	44.57%	196	49.25%	217	53.39%	235	57.13%	251
450	25.31%	114	37.26%	168	44.55%	200	49.22%	222	53.36%	240	57.10%	257
460	25.30%	116	37.24%	171	44.52%	205	49.20%	226	53.33%	245	57.07%	262
470	25.29%	119	37.23%	175	44.50%	209	49.17%	231	53.31%	251	57.04%	268
480	25.28%	121	37.21%	179	44.48%	214	49.15%	236	53.28%	256	57.01%	274
490	25.27%	124	37.19%	182	44.46%	218	49.13%	241	53.26%	261	56.98%	279

COMBINED NET WEEKLY INCOME	1 CHILD		2 CHILDREN		3 CHILDREN		4 CHILDREN		5 CHILDREN		6 CHILDREN	
	%	\$	%	\$	%	\$	%	\$	%	\$	%	\$
500	25.26%	126	37.17%	186	44.44%	222	49.11%	246	53.23%	266	56.96%	285
510	25.25%	129	37.16%	190	44.42%	227	49.09%	250	53.21%	271	56.93%	290
520	25.24%	131	37.14%	193	44.41%	231	49.07%	255	53.19%	277	56.91%	296
530	25.23%	134	37.13%	197	44.39%	235	49.05%	260	53.17%	282	56.89%	301
540	25.22%	136	37.11%	200	44.36%	240	49.02%	265	53.14%	287	56.85%	307
550	25.21%	139	37.09%	204	44.34%	244	48.99%	269	53.11%	292	56.82%	313
560	25.20%	141	37.07%	208	44.31%	248	48.97%	274	53.08%	297	56.79%	318
570	25.19%	144	37.05%	211	44.29%	252	48.94%	279	53.05%	302	56.76%	324
580	25.18%	146	37.04%	215	44.27%	257	48.92%	284	53.03%	308	56.73%	329
590	25.17%	148	37.02%	218	44.25%	261	48.89%	288	53.00%	313	56.71%	335
600	25.16%	151	37.01%	222	44.23%	265	48.87%	293	52.98%	318	56.68%	340
610	25.15%	153	36.99%	226	44.21%	270	48.85%	298	52.95%	323	56.66%	346
620	25.14%	156	36.98%	229	44.19%	274	48.83%	303	52.93%	328	56.63%	351
630	25.14%	158	36.96%	233	44.17%	278	48.81%	307	52.91%	333	56.61%	357
640	25.13%	161	36.95%	236	44.15%	283	48.79%	312	52.88%	338	56.58%	362
650	25.12%	163	36.93%	240	44.13%	287	48.77%	317	52.86%	344	56.56%	368
660	25.11%	166	36.92%	244	44.11%	291	48.74%	322	52.84%	349	56.54%	373
670	25.10%	168	36.90%	247	44.09%	295	48.72%	326	52.82%	354	56.51%	379
680	25.09%	171	36.89%	251	44.08%	300	48.70%	331	52.80%	359	56.49%	384
690	25.08%	173	36.88%	254	44.06%	304	48.69%	336	52.78%	364	56.47%	390
700	25.08%	176	36.87%	258	44.04%	308	48.67%	341	52.76%	369	56.45%	395
710	25.07%	178	36.85%	262	44.03%	313	48.65%	345	52.74%	374	56.43%	401
720	25.06%	180	36.84%	265	44.01%	317	48.63%	350	52.72%	380	56.41%	406
730	24.98%	182	36.72%	268	43.86%	320	48.46%	354	52.54%	384	56.22%	410
740	24.88%	184	36.58%	271	43.70%	323	48.28%	357	52.34%	387	56.01%	414
750	24.80%	186	36.44%	273	43.54%	327	48.11%	361	52.15%	391	55.80%	419
760	24.71%	188	36.31%	276	43.38%	330	47.93%	364	51.96%	395	55.60%	423
770	24.62%	190	36.19%	279	43.23%	333	47.77%	368	51.78%	399	55.41%	427
780	24.54%	191	36.06%	281	43.08%	336	47.60%	371	51.60%	403	55.22%	431
790	24.46%	193	35.94%	284	42.93%	339	47.44%	375	51.43%	406	55.03%	435
800	24.38%	195	35.82%	287	42.79%	342	47.29%	378	51.26%	410	54.85%	439
810	24.30%	197	35.71%	289	42.66%	346	47.14%	382	51.10%	414	54.67%	443
820	24.21%	199	35.57%	292	42.49%	348	46.96%	385	50.90%	417	54.46%	447
830	24.07%	200	35.37%	294	42.25%	351	46.69%	388	50.61%	420	54.15%	449
840	23.94%	201	35.17%	295	42.01%	353	46.42%	390	50.32%	423	53.85%	452
850	23.81%	202	34.98%	297	41.78%	355	46.17%	392	50.04%	425	53.55%	455
860	23.68%	204	34.79%	299	41.55%	357	45.92%	395	49.77%	428	53.26%	458
870	23.55%	205	34.60%	301	41.33%	360	45.67%	397	49.51%	431	52.97%	461
880	23.43%	206	34.42%	303	41.12%	362	45.43%	400	49.25%	433	52.69%	464
890	23.31%	207	34.25%	305	40.91%	364	45.20%	402	48.99%	436	52.42%	467
900	23.19%	209	34.07%	307	40.70%	366	44.97%	405	48.74%	439	52.16%	469
910	23.08%	210	33.91%	309	40.50%	369	44.74%	407	48.50%	441	51.90%	472
920	22.95%	211	33.71%	310	40.26%	370	44.49%	409	48.22%	444	51.60%	475
930	22.80%	212	33.50%	312	40.01%	372	44.21%	411	47.92%	446	51.28%	477
940	22.67%	213	33.30%	313	39.77%	374	43.94%	413	47.63%	448	50.97%	479
950	22.53%	214	33.10%	314	39.53%	376	43.68%	415	47.35%	450	50.66%	481
960	22.40%	215	32.90%	316	39.29%	377	43.42%	417	47.07%	452	50.36%	483
970	22.27%	216	32.71%	317	39.06%	379	43.16%	419	46.79%	454	50.07%	486
980	22.14%	217	32.52%	319	38.84%	381	42.92%	421	46.52%	456	49.78%	488
990	22.01%	218	32.34%	320	38.62%	382	42.67%	422	46.26%	458	49.50%	490

COMBINED NET WEEKLY INCOME	1 CHILD		2 CHILDREN		3 CHILDREN		4 CHILDREN		5 CHILDREN		6 CHILDREN	
	%	\$	%	\$	%	\$	%	\$	%	\$	%	\$
1,000	21.89%	219	32.16%	322	38.40%	384	42.43%	424	46.00%	460	49.22%	492
1,010	21.77%	220	31.98%	323	38.19%	386	42.20%	426	45.75%	462	48.95%	494
1,020	21.65%	221	31.81%	324	37.98%	387	41.97%	428	45.50%	464	48.68%	497
1,030	21.54%	222	31.64%	326	37.78%	389	41.75%	430	45.26%	466	48.42%	499
1,040	21.42%	223	31.47%	327	37.58%	391	41.53%	432	45.02%	468	48.17%	501
1,050	21.31%	224	31.31%	329	37.38%	393	41.31%	434	44.79%	470	47.92%	503
1,060	21.21%	225	31.15%	330	37.20%	394	41.10%	436	44.56%	472	47.68%	505
1,070	21.15%	226	31.07%	332	37.10%	397	41.00%	439	44.44%	476	47.55%	509
1,080	21.10%	228	30.99%	335	37.00%	400	40.89%	442	44.33%	479	47.43%	512
1,090	21.04%	229	30.91%	337	36.91%	402	40.78%	445	44.21%	482	47.31%	516
1,100	20.99%	231	30.83%	339	36.81%	405	40.68%	448	44.10%	485	47.19%	519
1,110	20.94%	232	30.76%	341	36.72%	408	40.58%	450	43.99%	488	47.07%	522
1,120	20.89%	234	30.68%	344	36.63%	410	40.48%	453	43.88%	491	46.96%	526
1,130	20.84%	235	30.61%	346	36.54%	413	40.38%	456	43.78%	495	46.84%	529
1,140	20.79%	237	30.54%	348	36.46%	416	40.29%	459	43.67%	498	46.73%	533
1,150	20.74%	239	30.46%	350	36.37%	418	40.19%	462	43.57%	501	46.62%	536
1,160	20.69%	240	30.39%	353	36.29%	421	40.10%	465	43.47%	504	46.52%	540
1,170	20.65%	242	30.33%	355	36.21%	424	40.01%	468	43.37%	507	46.41%	543
1,180	20.60%	243	30.26%	357	36.13%	426	39.92%	471	43.27%	511	46.31%	546
1,190	20.55%	245	30.19%	359	30.05%	429	39.83%	474	43.18%	514	46.20%	550
1,200	20.51%	246	30.13%	362	35.97%	432	39.75%	477	43.08%	517	46.10%	553
1,210	20.47%	248	30.06%	364	35.89%	434	39.66%	480	42.99%	520	46.01%	557
1,220	20.42%	249	30.00%	366	35.82%	437	39.58%	483	42.90%	523	45.91%	560
1,230	20.38%	251	29.94%	368	35.74%	440	39.50%	486	42.81%	527	45.81%	564
1,240	20.34%	252	29.88%	370	35.67%	442	39.42%	489	42.72%	530	45.72%	567
1,250	20.30%	254	29.82%	373	35.60%	445	39.34%	492	42.64%	533	45.63%	570
1,260	20.27%	255	29.77%	375	35.54%	488	39.27%	495	42.57%	536	45.55%	574
1,270	20.23%	257	29.72%	377	35.48%	451	39.21%	498	42.49%	540	45.47%	578
1,280	20.20%	259	29.67%	380	35.42%	453	39.14%	501	42.42%	543	45.40%	581
1,290	20.17%	260	29.62%	382	35.36%	456	39.07%	504	42.35%	546	45.32%	585
1,300	20.14%	262	29.57%	384	35.30%	459	39.01%	507	42.28%	550	45.25%	588
1,310	20.10%	263	29.52%	387	35.25%	462	38.95%	510	42.21%	553	45.17%	592
1,320	20.07%	265	29.48%	389	35.19%	465	38.89%	513	42.15%	556	45.10%	595
1,330	20.04%	267	29.43%	391	35.13%	467	38.83%	516	42.08%	560	45.03%	599
1,340	20.01%	268	29.39%	394	35.08%	470	38.77%	519	42.01%	563	44.96%	602
1,350	19.98%	270	29.34%	396	35.03%	473	38.71%	523	41.95%	566	44.89%	606
1,360	19.95%	271	29.30%	398	34.97%	476	38.65%	526	41.89%	570	44.82%	610
1,370	19.93%	273	29.25%	401	34.92%	478	38.59%	529	41.82%	573	44.75%	613
1,380	19.90%	275	29.21%	403	34.87%	481	38.53%	532	41.76%	576	44.69%	617
1,390	19.87%	276	29.17%	405	34.82%	484	38.48%	535	41.70%	580	44.62%	620
1,400	19.84%	278	29.13%	408	34.77%	487	38.42%	538	41.64%	583	44.56%	624
1,410	19.81%	279	29.09%	410	34.72%	490	38.37%	541	41.58%	586	44.50%	627
1,420	19.79%	281	29.05%	412	34.67%	492	38.32%	544	41.53%	590	44.43%	631
1,430	19.76%	283	29.01%	415	34.63%	495	38.26%	547	41.47%	593	44.37%	635
1,440	19.74%	284	28.97%	417	34.58%	498	38.21%	550	41.41%	596	44.31%	638
1,450	19.71%	286	28.93%	419	34.53%	501	38.16%	553	41.35%	600	44.25%	642
1,460	19.68%	287	28.89%	422	34.48%	503	38.10%	556	41.29%	603	44.19%	645
1,470	19.65%	289	28.84%	424	34.43%	506	38.05%	559	41.23%	606	44.12%	649
1,480	19.62%	290	28.80%	426	34.38%	609	37.99%	562	41.18%	609	44.06%	652
1,490	19.60%	292	28.76%	429	34.33%	512	37.94%	565	41.12%	613	44.00%	656

COMBINED NET WEEKLY INCOME	1 CHILD		2 CHILDREN		3 CHILDREN		4 CHILDREN		5 CHILDREN		6 CHILDREN	
	%	\$	%	\$	%	\$	%	\$	%	\$	%	\$
1,500	19.57%	294	28.72%	431	34.28%	514	37.88%	568	41.06%	616	43.94%	659
1,510	19.54%	295	28.68%	433	34.24%	517	37.83%	571	41.01%	619	43.87%	663
1,520	19.52%	297	28.64%	435	34.19%	520	37.78%	574	40.95%	622	43.81%	666
1,530	19.49%	298	28.61%	438	34.14%	522	37.73%	577	40.90%	626	43.76%	669
1,540	19.47%	300	28.57%	440	34.10%	525	37.68%	580	40.84%	629	43.70%	673
1,550	19.44%	301	28.53%	442	34.05%	528	37.63%	583	40.79%	632	43.64%	676
1,560	19.42%	303	28.49%	445	34.01%	531	37.58%	586	40.74%	635	43.58%	680
1,570	19.39%	304	28.46%	447	33.96%	533	37.53%	589	40.68%	639	43.53%	683
1,580	19.37%	306	28.42%	449	33.92%	536	37.48%	592	40.63%	642	43.47%	687
1,590	19.34%	308	28.39%	451	33.88%	539	37.44%	595	40.58%	645	43.42%	690
1,600	19.32%	309	28.35%	454	33.84%	541	37.39%	598	40.53%	649	43.36%	694
1,610	19.30%	311	28.32%	456	33.79%	544	37.34%	601	40.48%	652	43.31%	697
1,620	19.27%	312	28.28%	458	33.75%	547	37.30%	604	40.43%	655	43.26%	701
1,630	19.25%	314	28.25%	460	33.71%	550	37.25%	607	40.39%	658	43.21%	704
1,640	19.21%	315	28.19%	462	33.64%	552	37.18%	610	40.30%	661	43.12%	707
1,650	19.16%	316	28.11%	464	33.55%	554	37.08%	612	40.19%	663	43.00%	710
1,660	19.11%	317	28.04%	465	33.46%	555	36.98%	614	40.09%	665	42.89%	712
1,670	19.06%	318	27.97%	467	33.37%	557	36.88%	616	39.98%	668	42.77%	714
1,680	19.01%	319	27.89%	469	33.29%	559	36.78%	618	39.87%	670	42.66%	717
1,690	18.96%	320	27.82%	470	33.20%	561	36.69%	620	39.77%	672	42.55%	719
1,700	18.91%	322	27.75%	472	33.12%	563	36.59%	622	39.67%	674	42.44%	722
1,710	18.87%	323	27.68%	473	33.03%	565	36.50%	624	39.57%	677	42.34%	724
1,720	18.82%	324	27.61%	475	32.95%	567	36.41%	626	38.47%	679	42.23%	726
1,730	18.77%	325	27.54%	476	32.87%	569	36.32%	628	39.37%	681	42.13%	729
1,740	18.73%	326	27.47%	478	32.79%	570	36.23%	630	39.27%	683	42.02%	731
1,750	18.68%	327	27.41%	480	32.70%	572	36.14%	632	39.17%	686	41.92%	734

Section 46b–215a–3. Child support guidelines deviation criteria

(a) Introduction

The amount of current support calculated under the child support guidelines is presumed to be the correct amount to be awarded. The presumption may be rebutted by a specific finding on the record that the application of such guidelines would be inequitable or inappropriate in a particular case. Any such finding shall state the amount of support that would have been required under the guidelines and include a justification for the variance. Only the deviation criteria described in this section establish sufficient bases for such findings.

(b) Criteria for deviation from child support guidelines

(1) Other financial resources available to a parent

In some cases, a parent may have financial resources which are not included in the definition of net income, but could be used by such parent for the benefit of the child or for meeting the needs of the parent. The following resources may justify a deviation from the guidelines amount:

- (A) substantial assets, including both income-producing and non-income-producing property
- (B) the parent's earning capacity
- (C) parental support being provided to a minor obligor, which resource may only be considered for establishing a self-support reserve of less than \$145 per week.

(2) Extraordinary expenses for care and maintenance of the child

In some cases, a parent may be incurring extraordinary expenses which are essential for the proper care and maintenance of the child whose support is being determined. The following expenses, when found to be extraordinary and to exist on a substantial and continuing basis, may justify a deviation from the guidelines amount:

- (A) education expenses
- (B) unreimbursable medical expenses
- (C) expenses for special needs.

(3) Extraordinary parental expenses

In some cases, a parent may incur extraordinary expenses which are not considered allowable deductions from gross income but which are necessary for the parent to maintain a satisfactory parental relationship with the child, continue employment, or provide for the parent's own medical needs. The following expenses, when found to be extraordinary and to exist on a substantial and continuing basis, may justify a deviation from the guidelines amount:

- (A) significant visitation expenses
- (B) job-related unreimbursable employment expenses of individuals who are not self-employed
- (C) unreimbursable medical expenses.

(4) Needs of a parent's other dependents

In some cases, a parent may be legally responsible for the support of individuals other than the child whose support is being determined. In such cases, it may be appropriate to deviate from the guidelines amount to permit the parent to assist in meeting the following needs, which shall include any extraordinary unreimbursable medical expenses for such individuals:

- (A) those of children of prior unions residing with the obligor, or for whom the obligor is making verified payments
- (B) those of children of subsequent unions for whom there is no support order, provided such needs may be used as a possible defense against an increase in the support order, but not as a reason for decreasing such order
- (C) the significant and essential needs of a subsequent spouse, provided
 - (i) such needs may be used as a possible defense against an increase in the support order, but not as a reason for decreasing such order, and
 - (ii) the income, assets, and earning capacity of such spouse shall be considered in determining whether to deviate.

(5) Coordination of total family support

In some cases, the trier of fact may consider child support in conjunction with a determination of total family support, property settlement, and tax implications. When the trier of fact finds that such considerations will not result in a lesser economic benefit to the child, it may be appropriate to deviate from the guidelines amount for the following reasons:

- (A) division of assets and liabilities
- (B) provision of alimony
- (C) tax planning considerations.

(6) Special circumstances

In some cases, there may be special circumstances not otherwise addressed in these regulations in which the court should have the discretion to deviate from the guidelines amount for reasons of equity. Following are such circumstances:

- (A) Shared custody arrangements.

- (B) When unreimbursed day care costs are incurred for the child whose support is being determined, the court may order an additional amount to cover such costs for as long as they are incurred, provided
 - (i) such costs are reasonable,
 - (ii) the payment of such costs fails to leave sufficient funds for the child's other needs, and
 - (iii) day care is necessary for the parent to maintain or seek employment.
- (C) When an obligor's support payment falls within the darker shaded area of the schedule, the obligor benefits from an effective self-support reserve greater than the minimum self-support reserve of \$145 per week. In such cases, if the court finds that the custodial parent is employed but has a net income which is less than or equal to that of the obligor, the court may deviate from the guidelines amount by imposing an order which will reduce the obligor's effective self-support reserve to as low as the minimum self-support reserve.
- (D) If, on a motion for modification, the trier of fact finds that the obligor is working more than 40 hours per week and has substantially increased the number of hours worked per week, by comparison with his or her work history at the time the order entered, the trier of fact may order child support from the increased income in an amount less than that which would otherwise be required by the guidelines.
- (E) Best interests of the child.
- (F) Other equitable factors.

Section 46b-215a-4. Arrearage guidelines

(a) Scope of section

This section shall be used in the determination of periodic payments on child support arrearages, effective June 1, 1994. The determination of lump sum payments remains subject to the discretion of the judge or family support magistrate, in accordance with existing principles of law.

(b) General rule

Subject to subsections (c), (d), and (e) of this section, the weekly order of payment toward any arrearage shall be twenty percent (20%) of the weekly current support order, rounded to the nearest dollar, provided:

- (1) the sum of the weekly payments on current support and arrearages shall not exceed fifty-five percent (55%) of the obligor's net weekly income

- (2) the sum of the weekly payments on current support and arrearages shall not reduce the obligor's retained net weekly income below the minimum self-support reserve of \$145 per week
- (3) an arrearage order of five dollars (\$5.00) per week shall enter in the case of a low-income obligor provided such order will not reduce the obligor's retained net weekly income below the minimum self-support reserve of \$145 per week
- (4) where arrearages are owed to both the state and the family, five dollars (\$5.00) per month of the arrearage payment calculated in accordance with this section shall be allocated for payment of the arrearage owed to the state, and the balance of such payment shall be allocated for payment of the arrearage owed to the family.

(c) Special rules for arrearages owed to the state

This subsection applies when a determination of the periodic payment on arrearages owed to the state is being made.

(1) Child under age eighteen

(A) Applicability

This subdivision applies when

- (i) the child for whom the arrearage is owed is an unemancipated minor and
- (ii) no current support order is in effect for such child

unless the custodial parent of such child has refused IV-D services in writing or the IV-D current support case has been closed in accordance with IV-D requirements.

(B) Special rule

When this subdivision applies, the weekly arrearage payment shall be twenty percent (20%) of the imputed support obligation for such child.

(2) No child under age eighteen

(A) Applicability

This subdivision applies when

- (i) the child for whom the arrearage is owed is deceased, emancipated, or over age eighteen and
- (ii) no child support arrearage is owed to the family.

(B) Special rule

When this subdivision applies, the weekly arrearage payment shall be fifty percent (50%) of the imputed support obligation for such child.

(d) Special rule for child living with the obligor

(1) Applicability

This subsection applies when the child for whom the arrearage is owed is living with the obligor. A child is deemed to be living with the obligor for purposes of this subsection if the circumstances in either (A) or (B) are found.

(A) The obligor is the child's legal guardian and is currently living in the same household with such child.

(B) The obligor is not the child's legal guardian, but the child has lived in the same household with the obligor for at least

(i) the six months immediately preceding the determination of the arrearage payment or

(ii) six of the twelve months immediately preceding such determination.

(2) Special rule

When this subsection applies, the weekly arrearage payment shall be:

(A) five dollars (\$5.00) per month if the obligor's gross income is less than or equal to 250% of the poverty guideline for the obligor's household size, as published annually in the Federal Register by the Department of Health and Human Services

(B) twenty percent (20%) of the imputed support obligation for such child if the obligor's gross income is greater than 250% of the poverty guideline for the obligor's household size, as published annually in the Federal Register by the Department of Health and Human Services.

(e) Nominal payment

Notwithstanding subsections (b), (c), and (d) of this section, a nominal arrearage payment of five dollars (\$5.00) per month shall be entered whenever the amount called for in this section is less than such amount, provided such payment shall not reduce the obligor's retained net income below the minimum self-support reserve of \$145 per week.

(f) Use of the worksheet in arrearage determinations

Line references throughout this subsection are to Worksheet A, which is intended for use with the following instructions.

(1) Determine the total arrearage

Section III of Worksheet A is used to determine the total arrearage to be paid.

- (A) Enter on line 24 the total of all delinquent amounts which have become due and payable under a current support order, but which have not been reduced to a judgment or an arrearage finding.
- (B) Enter on line 25 the total of all unpaid support amounts which have been reduced previously to a judgment or arrearage finding.
- (C) Enter on line 26 the total of all support amounts due for periods prior to the initial determination of a support order, calculated as provided in subparagraph (2)(C) of section 46b-215a-1 of these regulations.
- (D) Enter on line 27 the sum of the line 24 through line 26 amounts. This amount is the total child support arrearage.

(2) Determine the arrearage payment

Section IV of Worksheet A is used to determine the periodic payment to be applied to the total arrearage determined in subdivision (1) of this subsection.

(A) Enter on line 28 either:

- (i) the amount of the current support order from line 23 of the worksheet, or
- (ii) the imputed support obligation for the child for whom the arrearage is owed if there is no current support order in effect for such child or the child is living with the obligor.

(B) Enter on line 29 either:

- (i) twenty percent (20%) of the line 28 amount, or
- (ii) fifty percent (50%) of the line 28 amount if there is no child under age 18.

(C) Enter on line 30 the noncustodial parent's net weekly income from line 11 of the worksheet.

(D) Enter on line 31 fifty-five percent (55%) of the line 30 amount.

- (E) Subtract line 28 from line 31 and enter the result on line 32. This is the maximum arrearage payment that would not violate subdivision (1) of the general rule (subsection (b) in this section).
- (F) Add \$145 to the line 28 amount and enter the sum on line 33.
- (G) Subtract line 33 from line 30 and enter the result on line 34. This is the maximum arrearage payment that would not violate subdivision (2) of the general rule (subsection (b) in this section).
- (H) Enter on line 35 the recommended arrearage payment, as follows:
 - (i) Unless the situations described in paragraphs (ii) or (iii) apply, enter the smallest of line 29, 32, and 34.
 - (ii) If the child for whom the arrearage is owed is living with the obligor and the obligor's gross income is not more than 250% of the poverty level (see subsection (d) in this section), enter \$5.00 per month.
 - (iii) If the noncustodial parent is a low-income obligor, enter the lesser of \$5.00 per week or the line 34 amount.
- (I) Enter the amount of the arrearage payment order on line 36. This amount shall be at least \$5.00 per month unless the line 34 amount is less than \$1.00. If the order differs from the recommended payment, the deviation criterion applied shall be stated in section VI of the worksheet.

Section 46b-215a-5. Arrearage guidelines deviation criteria

(a) Introduction

The periodic payment on arrearages calculated under the arrearage guidelines is presumed to be the correct amount to be ordered. The presumption may be rebutted by a specific finding on the record that the application of such guidelines would be inequitable or inappropriate in a particular case. Any such finding shall state the arrearage payment that would have been required under the guidelines and include a justification for the variance. Only the deviation criteria described in this section establish sufficient bases for such findings.

(b) Criteria for deviation from arrearage guidelines

The arrearage order is based on the current support order and will already reflect consideration of the criteria for deviation from the child support guidelines. Therefore, the criteria for deviating from the arrearage guidelines are more limited. They are as follows:

- (1) If the current support order was affected by the application of one or more deviation criteria, the trier of fact may consider adjusting the arrearage payment order upward or downward.
- (2) Other equitable factors.

A P P E N D I X

UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT (AS AMENDED IN 1952 AND 1958)

PART I GENERAL PROVISIONS

SECTION 1. [*Purposes.*] The purposes of this act are to improve and extend by reciprocal legislation the enforcement of duties of support and to make uniform the law with respect thereto.

SECTION 2. [*Definitions.*] In this act unless the context otherwise requires:

- (a) 'State' includes any state, territory or possession of the United States and the District of Columbia in which this or a substantially similar reciprocal law has been enacted.
- (b) 'Initiating state' means any state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced.
- (c) 'Responding state' means any state in which any proceeding pursuant to the proceeding in the initiating state is or may be commenced.
- (d) 'Court' means the [here insert name] court of this state and when the context requires, means the court of any other state as defined in a substantially similar reciprocal law.
- (e) 'Law' includes both common and statute law.
- (f) 'Duty of support' includes any duty of support imposed or imposable by law, or by any court order, decree or judgment, whether interlocutory or final, whether incidental to a proceeding for divorce, judicial [legal] separation, separate maintenance or otherwise.
- (g) 'Obligor' means any person owing a duty of support.
- (h) 'Obligee' means any person to whom a duty of support is owed and a state or political subdivision thereof.
- (i) 'Governor' includes any person performing the functions of Governor or the executive authority of any territory covered by the provisions of this act.

- (j) 'Support order' means any judgment, decree or order of support whether temporary or final, whether subject to modification, revocation or remission regardless of the kind of action in which it is entered:
- (k) 'Rendering state' means any state in which a support order is originally entered.
- (l) 'Registering court' means any court of this state in which the support order of the rendering state is registered.
- (m) 'Register' means to [record] [file] in the Registry of Foreign Support Orders as required by the court.
- (n) 'Certification' shall be in accordance with the laws of the certifying state.

SECTION 3. [*Remedies Additional to Those Now Existing.*] The remedies herein provided are in addition to and not in substitution for any other remedies.

SECTION 4. [*Extent of Duties of Support.*] Duties of support arising under the law of this state, when applicable under Section 7, bind the obligor, present in this state, regardless of the presence or residence of the obligee.

PART II CRIMINAL ENFORCEMENT

SECTION 5. [*Interstate Rendition.*] The Governor of this state (1) may demand from the Governor of any other state the surrender of any person found in such other state who is charged in this state with the crime of failing to provide for the support of any person in this state and (2) may surrender on demand by the Governor of any other state any person found in this state who is charged in such other state with the crime of failing to provide for the support of any person in such other state. The provisions for extradition of criminals not inconsistent herewith shall apply to any such demand although the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and although he had not fled therefrom. Neither the demand, the oath nor any proceedings for extradition pursuant to this section need state or show that the person whose surrender is demanded has fled from justice, or at the time of the commission of the crime was in the demanding or other state.

SECTION 6. [*Conditions of Interstate Rendition.*]

- (a) Before making the demand on the Governor of any other state for the surrender of a person charged in this state with the crime of failing to provide for the support of any person, the Governor of this state may require any [prosecuting attorney]¹ of this state to satisfy him that at least [sixty] days prior thereto the obligee brought an action for the support under this act, or that the bringing of an action would be of no avail.
- (b) When, under this or a substantially similar act, a demand is made upon the Governor of this state by the Governor of another state for the surrender of a person charged in the other state with the crime of failing to provide support, the Governor may call upon any [prosecuting attorney] to investigate or assist in investigating the demand, and to report to him whether any action for support has been brought under this act or would be effective.

¹Where prosecuting attorney is set out in brackets, it is contemplated that the enacting state will insert the name of the proper officer.

- (c) If an action for the support would be effective and no action has been brought, the Governor may delay honoring the demand for a reasonable time to permit prosecution of an action for support.
- (d) If an action for support has been brought and the person demanded has prevailed in that action, the Governor may decline to honor the demand.
- (e) If an action for support has been brought and pursuant thereto the Person demanded is subject to a support order, the Governor may decline to honor the demand so long as the person demanded is complying with the support order.

PART III CIVIL ENFORCEMENT

SECTION 7. [*Choice of Law.*] Duties of support applicable under this law [act] are those imposed or imposable under the laws of any state where the obligor was present during the period for which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

SECTION 8. [*Remedies of a State or Political Subdivision Thereof Furnishing Support.*] Whenever the state or a political subdivision thereof furnishes support; to an obligee, it has the same right to invoke the provisions hereof as the obligee to whom the support was furnished for the purpose of securing reimbursement of expenditures so made and of obtaining continuing support.

SECTION 9. [*How Duties of Support Are Enforced.*] All duties of support, including arrearages, are enforceable by action irrespective of the relationship between the obligor and the obligee.

SECTION 10. [*Jurisdiction.*] Jurisdiction of all proceedings here under is vested in the [here insert title of court desired].

SECTION 11. [*Contents of [Complaint] for Support.*] The [complaint]² shall be verified and shall state the name and, so far as known to the [complainant]², the address and circumstances of the [respondent]² and his dependents for whom support is sought and all other pertinent information. The [complainant] may include in or attach to the [complaint] any information which may help in locating or identifying the [respondent] such as a photograph of the [respondent], a description of any distinguishing marks of his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, or Social Security number.

SECTION 12. [*Officials to Represent [Complainant].*] The [prosecuting attorney], upon the request of the court [a state department of welfare, a county commissioner, an overseer of the poor, or other local welfare official], shall represent the [complainant] in any proceeding under this act.

SECTION 13. [*Complainant for a Minor.*] A [complaint] on behalf of a minor obligee may be brought by a person having legal custody of the minor without appointment as guardian ad litem.

SECTION 14. [*Duty of Court of This State as Initiating State.*] If the court of this state acting as an initiating state finds that the petition sets forth facts from which it may be determined that the [respondent] owes a duty of support and that a

²Where complainant and respondent are set out in brackets, it is contemplated that the proper description of the parties and pleadings under local practice be inserted.

court of the responding state may obtain jurisdiction of the defendant or his property, it shall so certify and shall cause three copies of (1) the [complaint], (2) its certificate and (3) this act to be transmitted to the court in the responding state. If the name and address of such court is unknown and the responding state has an information agency comparable to that established in the initiating state it shall cause such copies to be transmitted to the state information agency or other proper official of the responding state, with a request that it forward them to the proper court, and that the court of the responding state acknowledge their receipt to the court of the initiating state.

SECTION 15. [*Costs and Fees.*] There shall be no filing fee or other costs taxable to the obligee but a court of this state acting either as an initiating or responding state may in its discretion direct that any part of or all fees and costs incurred in this state, including without limitation by enumeration, fees for filing, service of process, seizure of property, and stenographic service of both [complainant] and [respondent] or either be paid by the obligor or the [county, city, municipality, state or other political subdivision thereof].

SECTION 16. [*Jurisdiction by Arrest.*] When the court of this state, acting either as an initiating or responding state, has reason to believe that the [respondent] may flee the jurisdiction it may

- (1) as an initiating state request in its certificate that the court of the responding state obtain the body of the defendant by appropriate process if that be permissible under the law of the responding state or
- (2) as a responding state, obtain the body of the [respondent] by appropriate process

SECTION 17. [*State Information Agency.*] The [Attorney General]³ is hereby designated as the State Information Agency under this act, and he shall

- (1) compile a list of the courts and their addresses in this state having jurisdiction under this act and transmit the same to the State Information Agency of every other state which has adopted this or a substantially similar act, and
- (2) maintain a register of such lists received from other states and transmit copies thereof as soon as possible after receipt to every court in this state having jurisdiction under this act.

SECTION 18. [*Duty of the Court and Officials of This State as Responding State.*]

- (a) After the court of this state acting as a responding state has received from the court of the initiating state the aforesaid copies the clerk of the court shall docket the cause and notify the [prosecuting attorney] of his action.
- (b) It shall be the duty of the [prosecuting attorney] diligently to prosecute the case. He shall take all action necessary in accordance with the laws of this state to give the court jurisdiction of the [respondent] or his property and shall request the court [clerk of the court] to set a time and place for a hearing.

³The name of an appropriate official or agency may be inserted in place of the Attorney General.

SECTION 19. [*Further Duties of Court and Officials in the Responding State.*]

- (a) The [prosecuting attorney] shall, on his own initiative, use all means at his disposal to trace the [respondent] or his property and if, due to inaccuracies of the [complaint] or otherwise, the court cannot obtain jurisdiction, the [prosecuting attorney] shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended [complaint] from the court in the initiating state.
- (b) If the [respondent] or his property is not found in the county [judicial district] and the [prosecuting attorney] discovers by any means that the [respondent] or his property may be found in another county [judicial district] of this state or in another state he shall so inform the court and thereupon the clerk of the court shall forward the documents received from the court in the initiating state to a court in the other county [judicial district] or to a court in the other state or to the information agency or other proper official of the other state with a request that it forward the documents to the proper court. Thereupon both the court of the other county and any court of this state receiving the documents and the [prosecuting attorney] have the same powers and duties under this act as if the documents had been originally addressed to them. When the clerk of a court of this state retransmits documents to another court, he shall notify forthwith the court from which the documents came.
- (c) If the [prosecuting attorney] has no information as to the whereabouts of the obligor or his property he shall so inform the initiating court.

SECTION 20. [*Procedure.*] The court shall conduct proceedings under this act in the manner prescribed by law for an action for enforcement of the type of duty of support claimed.]

SECTION 21. [*Hearing and Determination.*] If the [complainant] is absent from the responding state and the [respondent] presents evidence which constitutes a defense, the court shall continue the case for further hearing and the submission of evidence by both parties.

SECTION 22. [*Evidence of Husband and Wife.*] Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this act. Husband and wife are competent witnesses [and may be compelled] to testify to any relevant matter, including marriage and parentage.

SECTION 23. [*Rules of Evidence.*] In any hearing under this law, the court shall be bound by the same rules of evidence that bind the [here insert the name of some court in the state that has relaxed the requirement that the technical rules of evidence must be followed, such as the Juvenile Court, the Domestic Relations Court].

SECTION 24. [*Order of Support.*] If the court of the responding state finds a duty of support, it may order the [respondent] to furnish support or reimbursement therefor and subject the property of the [respondent] to such order. [The court and [prosecuting attorney] of any county where the obligor is present or has property have the same powers and duties to enforce the order as have those of the county where it was first issued. If enforcement is impossible or cannot be completed in the county where the order was issued, the [prosecuting attorney] shall transmit a certified copy of the order to the [prosecuting attorney] of any county where it appears that procedures to enforce payment of the amount due would be effective. The [prosecuting attorney] to whom the certified copy of the

order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order.]

SECTION 25. [*Responding State to Transmit Copies to Initiating State.*] The court of this state when acting as a responding state shall cause to be transmitted to the court of the initiating state a copy of all orders of support or for reimbursement therefor.

SECTION 26. [*Additional Powers of Court.*] In addition to the foregoing powers, the court of this state when acting as the responding state has the power to subject the [respondent] to such terms and conditions as the court may deem proper to assure compliance with its orders and in particular

- (a) To require the [respondent] to furnish recognizance in the form of a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the [respondent].
- (b) To require the [respondent] to make payments at specified intervals to the clerk [probation department] [bureau] of the court and to report personally to such clerk [probation department] [bureau] at such times as may be deemed necessary.
- (c) To punish the [respondent] who shall violate any order of the court to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court.

SECTION 27. [*Additional Duties of the Court of This State When Acting as a Responding State.*] The court of this state when acting as a responding state shall have the following duties which may be carried out through the clerk [probation department] [bureau] of the court:

- (a) Upon the receipt of a payment made by the [respondent] pursuant to any order of the court or otherwise, to transmit the same forthwith to the court of the initiating state, and
- (b) Upon request, to furnish to the court of the initiating state a certified statement of all payments made by the [respondent].

SECTION 28. [*Additional Duty of the Court of the State When Acting as an Initiating State.*] The courts of this state when acting as an initiating state shall have the duty which may be carried out through the clerk [probation department] [bureau] of the court to receive and disburse forthwith all payments made by the [respondent] or transmitted by the court of the responding state.

SECTION 29. [*Proceedings Not to Be Stayed.*] No proceeding under this act shall be stayed because of the existence of a pending [action] for divorce, separation, annulment, dissolution, habeas corpus or custody proceeding.

SECTION 30. [*Application of Payments.*] No order of support issued by a court of this state when acting as a responding state shall supersede any other order of support but the amounts for a particular period paid pursuant to either order shall be credited against amounts accruing or accrued for the same period under both.

SECTION 31. [*Effect of Participation in Proceeding.*] Participation in any proceeding under this act shall not confer upon any court jurisdiction of any of the parties thereto in any other proceeding.]

[SECTION 32. [*Inter-County Application.*] This act is applicable when both the [complainant] and the [respondent] are in this state but in different counties. If the court of the county in which this petition is filed finds that the petition sets forth facts from which it may be determined that the [respondent] owes a duty of support and finds that a court of another county in this state may obtain jurisdic-

tion of the [respondent] or his property, the clerk of the court shall send three copies of the [complaint] and a certification of the findings to the court of the county in which the [respondent] or his property is found. The clerk of the court of the county receiving these copies shall notify the [prosecuting attorney] of their receipt. The [prosecuting attorney] and the court in the county to which the copies are forwarded shall then have duties corresponding to those imposed upon them when acting for the state as a responding state.]

PART IV REGISTRATION OF FOREIGN SUPPORT ORDERS

SECTION 33. [*Additional Remedies.*] If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in the following sections.

SECTION 34. [*Registration.*] The obligee may register the foreign support order in a court of this state in the manner, with the effect and for the purpose herein provided.

SECTION 35. [*Registry of Foreign Support Orders.*] The clerk of the court shall maintain a Registry of Foreign Support Orders in which he shall record [file] foreign support orders.

SECTION 36. [*Petition for Registration.*] The petition for registration shall be verified and shall set forth the amount remaining unpaid and a list of any other states in which the support order is registered and shall have attached to it a certified copy of the support order with all modifications thereof. The foreign support order is registered upon the filing of the [complaint] subject only to subsequent order of confirmation.

SECTION 37. [*Jurisdiction and Procedure.*] The procedure to obtain jurisdiction of the person or property of the obligor shall be as provided in civil cases. The obligor may assert any defense available to a defendant in an action on a foreign judgment. If the obligor defaults, the court shall enter an order confirming the registered support order and determining the amounts remaining unpaid. If the obligor appears and a hearing is held, the court shall adjudicate the issues including the amounts remaining unpaid.

SECTION 38. [*Effect and Enforcement.*] The support order as confirmed shall have the same effect and may be enforced as if originally entered in the court of this state. The procedures for the enforcement thereof, shall be as in civil cases, including the power to punish the [respondent] for contempt as in the case of other orders for payment of alimony, maintenance or support entered in this state.

SECTION 39. [*Severability.*] If any provision of this Act or the application thereof to any person or circumstance is held invalid the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 40. [*Repealer.*] The following acts are hereby repealed:

(Enumeration)

SECTION 41. [*Uniformity of Interpretation.*] This act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SECTION 42. [*Short Title.*] This act may be cited as the Uniform Reciprocal Enforcement of Support Act.

SECTION 43. [*Time of Taking Effect.*] This act shall take effect on

E

A P P E N D I X

REVISED UNIFORM RECIPROCAL ENFORCEMENT OF SUPPORT ACT (1968)

PART 1 GENERAL PROVISIONS

SECTION 1. [*Purposes.*] The purposes of this Act are to improve and extend by reciprocal legislation the enforcement of duties of support.

SECTION 2. [*Definitions.*]

- (a) 'Court' means the [here insert name] court of this State and when the context requires means the court of any other state as defined in a substantially similar reciprocal law.
- (b) 'Duty of support' means a duty of support whether imposed or imposable by law or by order, decree, or judgment of any court, whether interlocutory or final or whether incidental to an action for divorce, separation, separate maintenance, or otherwise and includes the duty to pay arrearages of support past due and unpaid.
- (c) 'Governor' includes any person performing the functions of Governor or the executive authority of any state covered by this Act.
- (d) 'Initiating state' means a state in which a proceeding pursuant to this or a substantially similar reciprocal law is commenced. 'Initiating court' means the court in which a proceeding is commenced.
- (e) 'Law' includes both common and statutory law.
- (f) 'Obligee' means a person including a state or political subdivision to whom a duty of support is owed or a person including a state or political subdivision that has commenced a proceeding for enforcement of an alleged duty of support or for registration of a support order. It is immaterial if the person to whom a duty of support is owed is a recipient of public assistance.
- (g) 'Obligor' means any person owing a duty of support or against whom a proceeding for the enforcement of a duty of support or registration of a support order is commenced.

- (h) 'Prosecuting attorney' means the public official in the appropriate place who has the duty to enforce criminal laws relating to the failure to provide for the support of any person.
- (i) 'Register' means to [record] [file] in the Registry of Foreign Support Orders.
- (j) 'Registering court' means any court of this State in which a support order of a rendering state is registered.
- (k) 'Rendering state' means a state in which the court has issued a support order for which registration is sought or granted in the court of another state.
- (l) 'Responding state' means a state in which any responsive proceeding pursuant to the proceeding in the initiating state is commenced. 'Responding court' means the court in which the responsive proceeding is commenced.
- (m) 'State' includes a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any foreign jurisdiction in which this or a substantially similar reciprocal law is in effect.
- (n) 'Support order' means any judgment, decree, or order of support in favor of an obligee whether temporary or final, or subject to modification, revocation, or remission, regardless of the kind of action or proceeding in which it is entered.

SECTION 3. [*Remedies Additional to Those Now Existing.*] The remedies herein provided are in addition to and not in substitution for any other remedies.

SECTION 4. [*Extent of Duties of Support.*] Duties of support arising under the law of this State, when applicable under section, bind the obligor present in this State regardless of the presence or residence of the obligee.

PART II CRIMINAL BEHAVIOR

SECTION 5. [*Interstate Rendition.*] The Governor of this State may

- (1) demand of the Governor of another state the surrender of a person found in that state who is charged criminally in this State with failing to provide for the support of any person; or
- (2) surrender on demand by the Governor of another state a person found in this State who is charged criminally in that state with failing to provide for the support of any person. Provisions or extradition of criminals not inconsistent with this Act apply to the demand even if the person whose surrender is demanded was not in the demanding state at the time of the commission of the crime and has not fled therefrom. The demand, the oath, and any proceedings for extradition pursuant to this section need not state or show that the person whose surrender is demanded has fled from justice or at the time of the commission of the crime was in the demanding state.

SECTION 6. [*Conditions of Interstate Rendition.*]

- (a) Before making the demand upon the Governor of another state for the surrender of a person charged criminally in this State with failing to provide for the support of a person, the Governor of this State may require

any prosecuting attorney of this State to satisfy him that at least [60] days prior thereto the obligee initiated proceedings for support under this Act or that any proceeding would be of no avail.

- (b) If, under a substantially similar Act, the Governor of another state makes a demand upon the Governor of this State for the surrender of a person charged criminally in that state with failure to provide for the support of a person, the Governor may require any prosecuting attorney to investigate the demand and to report to him whether proceedings for support have been initiated or would be effective. If it appears to the Governor that a proceeding would be effective but has not been initiated he may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.
- (c) If proceedings have been initiated and the person demanded has prevailed therein the Governor may decline to honor the demand. If the obligee prevailed and the person demanded is subject to a support order, the Governor may decline to honor the demand if the person demanded is complying with the support order.

PART III CIVIL ENFORCEMENT

SECTION 7. [*Choice of Law.*] Duties of support applicable under this Act are those imposed under the laws of any state where the obligor was present for the period during which support is sought. The obligor is presumed to have been present in the responding state during the period for which support is sought until otherwise shown.

SECTION 8. [*Remedies of State or Political Subdivision Furnishing Support.*] If a state or a political subdivision furnishes support to an individual obligee it has the same right to initiate a proceeding under this Act as the individual obligee for the purpose of securing reimbursement for support furnished and of obtaining continuing support.

SECTION 9. [*How Duties of Support Are Enforced.*] All duties of support, including the duty to pay arrearages, are enforceable by a proceeding under this Act including a proceeding for civil contempt. The defense that the parties are immune to suit because of their relationship as husband and wife or parent and child is not available to the obligor.

SECTION 10. [*Jurisdiction.*] Jurisdiction of any proceeding under this Act is vested in the [here insert title of court desired].

SECTION 11. [*Contents and Filing of [Petition] for Support; Venue.*]

- (a) The [petition] shall be verified and shall state the name and, so far as known to the obligee, the address and circumstances of the obligor and the persons for whom support is sought, and all other pertinent information. The obligee may include in or attach to the [petition] any information which may help in locating or identifying the obligor including a photograph of the obligor, a description of any distinguishing marks on his person, other names and aliases by which he has been or is known, the name of his employer, his fingerprints, and his Social Security number.
- (b) The [petition] may be filed in the appropriate court of any state in which the obligee resides. The court shall not decline or refuse to accept and forward the [petition] on the ground that it should be filed with some other

court of this or any other state where there is pending another action for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody between the same parties or where another court has already issued a support order in some other proceeding and has retained jurisdiction for its enforcement.

COMMENT

Wherever in this Act the word "petition" appears the word may be changed to "complaint" or "declaration" or the like and the word "petitioner" may be changed to "complainant" to conform to local usage.

SECTION 12. [*Officials to Represent Obligee.*] If this State is acting as an initiating state the prosecuting attorney upon the request of the court [a state department of welfare, a county commissioner, an overseer of the poor, or other local welfare officer] shall represent the obligee in any proceeding under this Act. [If the prosecuting attorney neglects or refuses to represent the obligee the [Attorney General] may order him to comply with the request of the court or may undertake the representation.] [If the prosecuting attorney neglects or refuses to represent the obligee, the [Attorney General] [State Director of Public Welfare] may undertake the representation.]

COMMENT

The first bracketed sentence is to be used in states where the Attorney General has supervisory powers over the prosecuting attorney; whereas, the second bracketed sentence is to be used if he does not have such powers.

SECTION 13. [*Petition for a Minor.*] A [petition] on behalf of a minor obligee may be executed and filed by a person having legal custody of the minor without appointment as guardian ad litem.

SECTION 14. [*Duty of Initiating Court.*] If the initiating court finds that the [petition] sets forth facts from which it may be determined that the obligor owes a duty of support and that a court of the responding state may obtain jurisdiction of the obligor or his property it shall so certify and cause 3 copies of the [petition] and its certificate and one copy of this Act to be sent to the responding court. Certification shall be in accordance with the requirements of the initiating state. If the name and address of the responding court is unknown and the responding state has an information agency comparable to that established in the initiating state it shall cause the copies to be sent to the state information agency or other proper official of the responding state, with a request that the agency or official forward them to the proper court and that the court of the responding state acknowledge their receipt to the initiating court.

SECTION 15. [*Costs and Fees.*] An initiating court shall not require payment of either a filing fee or other costs from the obligee but may request the responding court to collect fees and costs from the obligor. A responding court shall not require payment of a filing fee or other costs from the obligee but it may direct that all fees and costs requested by the initiating court and incurred in this State when acting as a responding state, including fees for filing of pleadings, service of process, seizure of property, stenographic or duplication service, or other service supplied to the obligor, be paid in whole or in part by the obligor or by the [state or political subdivision thereof]. These costs or fees do not have priority over amounts due to the obligee.

SECTION 16. [*Jurisdiction by Arrest.*] If the court of this State believes that the obligor may flee it may

- (1) as an initiating court, request in its certificate that the responding court obtain the body of the obligor by appropriate process; or
- (2) as a responding court, obtain the body of the obligor by appropriate process. Thereupon it may release him upon his own recognizance or upon his giving a bond in an amount set by the court to assure his appearance at the hearing.

SECTION 17. [*State Information Agency.*]

- (a) The [Attorney General's Office, State Attorney's Office, Welfare Department or other Information Agency] is designated as the state information agency under this Act, it shall
 - (1) compile a list of the courts and their addresses in this State having jurisdiction under this Act and transmit it to the state information agency of every other state which has adopted this or a substantially similar Act. Upon the adjournment of each session of the [legislature] the agency shall distribute copies of any amendments to the Act and a statement of their effective date to all other state information agencies;
 - (2) maintain a register of lists of courts received from other states and transmit copies thereof promptly to every court in this state having jurisdiction under this Act; and
 - (3) forward to the court in this State which has jurisdiction over the obligor or his property petitions, certificates, and copies of the Act it receives from courts or information agencies of other states.
- (b) If the state information agency does not know the location of the obligor or his property in the state and no state location service is available it shall use all means at its disposal to obtain this information, including the examination of official records in the state and other sources such as telephone directories, real property records, vital statistics records, police records, requests for the name and address from employers who are able or willing to cooperate, records of motor vehicle license offices, requests made to the tax offices both state and federal where such offices are able to cooperate, and requests made to the Social Security Administration as permitted by the Social Security Act as amended.
- (c) After the deposit of 3 copies of the [petition] and certificate and one copy of the Act of the initiating state with the clerk of the appropriate court, if the state information agency knows or believes that the prosecuting attorney is not prosecuting the case diligently it shall inform the [Attorney General] [State Director of Public Welfare] who may undertake the representation.

SECTION 18. [*Duty of the Court and Officials of This State as Responding State.*]

- (a) After the responding court receives copies of the [petition], certificate, and Act from the initiating court the clerk of the court shall docket the case and notify the prosecuting attorney of this action.
- (b) The prosecuting attorney shall prosecute the case diligently. He shall take all action necessary in accordance with the laws of this State to enable the court to obtain jurisdiction over the obligor or his property and shall re-

quest the court [clerk of the court] to set a time and place for a hearing and give notice thereof to the obligor in accordance with law.

- (c) [If the prosecuting attorney neglects or refuses to represent the obligee the [Attorney General] may order him to comply with the request of the court or may undertake the representation.] [If the prosecuting attorney neglects or refuses to represent the obligee, the [Attorney General] [State Director of Public Welfare] may undertake the representation.]

COMMENT

The first bracketed sentence is to be used in states where the Attorney General has supervisory powers over the prosecuting attorney; whereas, the second bracketed sentence is to be used if he does not have such powers.

SECTION 19. [*Further Duties of Court and Officials in the Responding State.*]

- (a) The prosecuting attorney on his own initiative shall use all means at his disposal to locate the obligor or his property, and if because of inaccuracies in the [petition] or otherwise the court cannot obtain jurisdiction the prosecuting attorney shall inform the court of what he has done and request the court to continue the case pending receipt of more accurate information or an amended [petition] from the initiating court.
- (b) If the obligor or his property is not found in the [county], and the prosecuting attorney discovers that the obligor or his property may be found in another [county] of this State or in another state he shall so inform the court. Thereupon the clerk of the court shall forward the documents received from the court in the initiating state to a court in the other [county] or to a court in the other state or to the information agency or other proper official of the other state with a request that the documents be forwarded to the proper court. All powers and duties provided by this Act apply to the recipient of the documents so forwarded. If the clerk of a court of this State forwards documents to another court he shall forthwith notify the initiating court.
- (c) If the prosecuting attorney has no information as to the location of the obligor or his property he shall so inform the initiating court.

SECTION 20. [*Hearing and Continuance.*] If the obligee is not present at the hearing and the obligor denies owing the duty of support alleged in the petition or offers evidence constituting a defense, the court, upon request of either party, shall continue the hearing to permit evidence relative to the duty to be adduced by either party by deposition or by appearing in person before the court. The court may designate the judge of the initiating court as a person before whom a deposition may be taken.

SECTION 21. [*Immunity from Criminal Prosecution.*] If at the hearing the obligor is called for examination as an adverse party and he declines to answer upon the ground that his testimony may tend to incriminate him, the court may require him to answer, in which event he is immune from criminal prosecution with respect to matters revealed by his testimony, except for perjury committed in this testimony.

SECTION 22. [*Evidence of Husband and Wife.*] Laws attaching a privilege against the disclosure of communications between husband and wife are inapplicable to proceedings under this Act. Husband and wife are competent witnesses [and may be compelled] to testify to any relevant matter, including marriage and parentage.

SECTION 23. [*Rules of Evidence.*] In any hearing for the civil enforcement of this Act the court is governed by the rules of evidence applicable in a civil court action in the Court. If the action is based on a support order issued by another court a certified copy of the order shall be received as evidence of the duty of support, subject only to any defenses available to an obligor with respect to paternity (Section 27) or to a defendant in an action or a proceeding to enforce a foreign money judgment. The determination or enforcement of a duty of support owed to one obligee is unaffected by any interference by another obligee with rights of custody or visitation granted by a court.

SECTION 24. [*Order of Support.*] If the responding court finds a duty of support it may order the obligor to furnish support or reimbursement therefor and subject the property of the obligor to the order. Support orders made pursuant to this Act shall require that payments be made to the [clerk] [bureau] [probation department] of the court of the responding state. [The court and prosecuting attorney of any [county] in which the obligor is present or has property have the same powers and duties to enforce the order as have those of the [county] in which it was first issued. If enforcement is impossible or cannot be completed in the [county] in which the order was issued, the prosecuting attorney shall send a certified copy of the order to the prosecuting attorney of any [county] in which it appears that proceedings to enforce the order would be effective. The prosecuting attorney to whom the certified copy of the order is forwarded shall proceed with enforcement and report the results of the proceedings to the court first issuing the order.]

SECTION 25. [*Responding Court to Transmit Initiating Court.*] The responding court shall cause a support order to be sent to the initiating court.

SECTION 26. [*Additional Powers of Responding Court.*] In addition to the foregoing powers a responding court may subject the obligor to any terms and conditions proper to assure compliance with its orders and in particular to:

- (1) require the obligor to furnish a cash deposit or a bond of a character and amount to assure payment of any amount due;
- (2) require the obligor to report personally and to make payments at specified intervals to the [clerk] [bureau] [probation department] of the court; and
- (3) punish under the power of contempt the obligor who violates any order of the court.

SECTION 27. [*Paternity.*] If the obligor asserts as a defense that he is not the father of the child for whom support is sought and it appears to the court that the defense is not frivolous, and if both of the parties are present at the hearing or the proof required in the case indicates that the presence of either or both of the parties is not necessary, the court may adjudicate the paternity issue. Otherwise the court may adjourn the hearing until the paternity issue has been adjudicated.

SECTION 28. [*Additional Duties of Responding Court.*] A responding court has the following duties which may be carried out through the [clerk] [bureau] [probation department] of the court:

- (1) to transmit to the initiating court any payment made by the obligor pursuant to any order of the court or otherwise; and
- (2) to furnish to the initiating court upon request a certified statement of all payments made by the obligor.

SECTION 29. [*Additional Duty of Initiating Court.*] An initiating court shall receive and disburse forthwith all payments made by the obligor or sent by the re-

sponding court. This duty may be carried out through the [clerk] [bureau] [probation department] of the court.

SECTION 30. [*Proceedings Not to Be Stayed.*] A responding court shall not stay the proceeding or refuse a hearing under this Act because of any pending or prior action or proceeding for divorce, separation, annulment, dissolution, habeas corpus, adoption, or custody in this or any other state. The court shall hold a hearing and may issue a support order pendente lite. In aid thereof it may require the obligor to give a bond for the prompt prosecution of the pending proceeding. If the other action or proceeding is concluded before the hearing in the instant proceeding and the judgment therein provides for the support demanded in the [petition] being heard the court must conform its support order to the amount allowed in the other action or proceeding. Thereafter the court shall not stay enforcement of its support order because of the retention of jurisdiction for enforcement purposes by the court in the other action or proceeding.

SECTION 31. [*Application of Payments.*] A support order made by a court of this State pursuant to this Act does not nullify and is not nullified by a support order made by a court of this State pursuant to any other law or by a support order made by a court of any other state pursuant to a substantially similar act or any other law, regardless of priority of issuance, unless otherwise specifically provided by the court. Amounts paid for a particular period pursuant to any support order made by the court of another state shall be credited against the amounts accruing or accrued for the same period under any support order made by the court of this State.

[SECTION 32. [*Effect of Participation in Proceedings.*] Participation in any proceeding under this Act does not confer jurisdiction upon any court over any of the parties thereto in any other proceeding.]

[SECTION 33. [*Intrastate Application.*] This Act applies if both the obligee and the obligor are in this State but in different [counties]. If the court of the [county] in which the [petition] is filed finds that the [petition] sets forth facts from which it may be determined that the obligor owes a duty of support and finds that a court of another [county] in this State may obtain jurisdiction over the obligor or his property, the clerk of the court shall send the [petition] and a certification of the findings to the court of the [county] in which the obligor or his property is found. The clerk of the court of the [county] receiving these documents shall notify the prosecuting attorney of their receipt. The prosecuting attorney and the court in the [county] to which the copies are forwarded then shall have duties corresponding to those imposed upon them when acting for this State as a responding state.]

SECTION 34. [*Appeals.*] If the [Attorney General] [State Director of Public Welfare] is of the opinion that a support order is erroneous and presents a question of law warranting an appeal in the public interest, he may

- (a) perfect an appeal to the proper appellate court if the support order was issued by a court of this State, or
- (b) if the support order was issued in another state, cause the appeal to be taken in the other state. In either case expenses of appeal may be paid on his order from funds appropriated for his office.

PART IV REGISTRATION OF FOREIGN SUPPORT ORDERS

SECTION 35. [*Additional Remedies.*] If the duty of support is based on a foreign support order, the obligee has the additional remedies provided in the following sections.

COMMENT

The language of the last sentence is permissive and so does not preclude other arrangements for the payment of the expenses of appeal. If it is thought desirable to spell out particular methods of payment this may be done.

SECTION 36. [*Registration.*] The obligee may register the foreign support order in a court of this State in the manner, with the effect, and for the purposes herein provided.

SECTION 37. [*Registry of Foreign Support Orders.*] The clerk of the court shall maintain a Registry of Foreign Support Orders in which he shall [file] foreign support orders.

SECTION 38. [*Official to Represent Obligee.*] If this State is acting either as a rendering or a registering state the prosecuting attorney upon the request of the court [a state department of welfare, a county commissioner, an overseer of the poor, or other local welfare officials shall represent the obligee in proceedings under this Part.

[If the prosecuting attorney neglects or refuses to represent the obligee, the [Attorney General] may order him to comply with the request of the court or may undertake the representation.] [If the prosecuting attorney neglects or refuses to represent the obligee, the [Attorney General] [State Director of Public Welfare] may undertake the representation.]

COMMENT

The first bracketed sentence is to be used in states where the Attorney General has supervisory powers over the prosecuting attorney; whereas, the second bracketed sentence is to be used if he does not have such powers.

SECTION 39. [*Registration Procedure; Notice.*]

- (a) An obligee seeking to register a foreign support order in a court of this State shall transmit to the clerk of the court (1) three certified copies of the order with all modification thereof, (2) one copy of the reciprocal enforcement of support act of the state in which the order was made, and (3) a statement verified and signed by the obligee, showing the post office address of the obligee, the last known place of residence and post office address of the obligor, the amount of support remaining unpaid, a description and the location of any property of the obligor available upon execution, and a list of the states in which the order is registered. Upon receipt of these documents the clerk of the court, without payment of a filing fee or other cost to the obligee, shall file them in the Registry of Foreign Support Orders. The filing constitutes registration under this Act.
- (b) Promptly upon registration the clerk of the court shall send by certified or registered mail to the obligor at the address given a notice of the registration with a copy of the registered support order and the post office address of the obligee. He shall also docket the case and notify the prosecuting attorney of his action. The prosecuting attorney shall proceed diligently to enforce the order.

SECTION 40. [*Effect of Registration; Enforcement Procedure.*]

- (a) Upon registration the registered foreign support order shall be treated in the same manner as a support order issued by a court of this State. It has the same effect and is subject to the same procedures, defenses, and pro-

ceedings for reopening, vacating, or staying as a support order of this State and may be enforced and satisfied in like manner.

- (b) The obligor has [20] days after the mailing of notice of the registration in which to petition the court to vacate the registration or for other relief. If he does not so petition the registered support order is confirmed.
- (c) At the hearing to enforce the registered support order the obligor may present only matters that would be available to him as defenses in an action to enforce a foreign money judgment. If he shows to the court that an appeal from the order is pending or will be taken or that a stay of execution has been granted the court shall stay enforcement of the order until the appeal is concluded, the time for appeal has expired, or the order is vacated, upon satisfactory proof that the obligor has furnished security for payment of the support ordered as required by the rendering state. If he shows to the court any ground upon which enforcement of a support order of this State may be stayed the court shall stay enforcement of the order for an appropriate period if the obligor furnishes the same security for payment of the support ordered that is required for a support order of this State.

SECTION 41. [*Uniformity of Interpretation.*] This Act shall be construed as to effectuate its general purpose to make uniform the law of those states which enact it.

SECTION 42. [*Short Title.*] This Act may be cited as the Revised Uniform Reciprocal Enforcement of Support Act (1968).

SECTION 43. [*Severability.*] If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given without the invalid provision or application, and to this end the provisions of this Act are severable.

F

A P P E N D I X

UNIFORM INTERSTATE FAMILY SUPPORT ACT (1996)

ARTICLE 1. GENERAL PROVISIONS

SECTION 101. DEFINITIONS. In this [Act]:

- (1) '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.
- (2) 'Child-support order' means a support order for a child, including a child who has attained the age of majority under the law of the issuing State.
- (3) '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.
- (4) 'Home State' means the State 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 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.
- (5) '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 this State.
- (6) 'Income-withholding order' means an order or other legal process directed to an obligor's employer [or other debtor], as defined by [the income-withholding law of this State], to withhold support from the income of the obligor.
- (7) 'Initiating State' means a State from which a proceeding is forwarded or in which a proceeding is filed for forwarding to a responding State under this [Act] or a law or procedure substantially similar to this [Act], the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.

- (8) 'Initiating tribunal' means the authorized tribunal in an initiating State.
- (9) 'Issuing State' means the State in which a tribunal issues a support order or renders a judgment determining parentage.
- (10) 'Issuing tribunal' means the tribunal that issues a support order or renders a judgment determining parentage.
- (11) 'Law' includes decisional and statutory law and rules and regulations having the force of law.
- (12) 'Obligee' means:
 - (i) an individual to whom a duty of support is or is alleged to be owed or in whose favor a support order has been issued or a judgment determining parentage has been rendered;
 - (ii) a State or political subdivision to which the rights under a duty of support or support order have been assigned or which has independent claims based on financial assistance provided to an individual obligee; or
 - (iii) an individual seeking a judgment determining parentage of the individual's child.
- (13) 'Obligor' means an individual, or the estate of a decedent:
 - (i) who owes or is alleged to owe a duty of support;
 - (ii) who is alleged but has not been adjudicated to be a parent of a child; or
 - (iii) who is liable under a support order.
- (14) 'Register' means to [record; file] a support order or judgment determining parentage in the [appropriate location for the recording or filing of foreign judgments generally or foreign support orders specifically].
- (15) 'Registering tribunal' means a tribunal in which a support order is registered.
- (16) 'Responding State' means a State in which a proceeding is filed or to which a proceeding is forwarded for filing from an initiating State under this [Act] or a law or procedure substantially similar to this [Act], the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.
- (17) 'Responding tribunal' means the authorized tribunal in a responding State.
- (18) 'Spousal-support order' means a support order for a spouse or former spouse of the obligor.
- (19) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes:
 - (i) an Indian tribe; and
 - (ii) a foreign jurisdiction that has enacted a law or established procedures for issuance and enforcement of support orders which are substantially similar to the procedures under this [Act], the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act.
- (20) 'Support enforcement-agency' means a public official or agency authorized to seek:

- (i) enforcement of support orders or laws relating to the duty of support;
 - (ii) establishment or modification of child support;
 - (iii) determination of parentage; or
 - (iv) to locate obligors or their assets.
- (21) ‘Support order’ means a judgment, decree, or order, whether temporary, final, or subject to modification, for the benefit of a child, a spouse, or a former spouse, which provides for monetary support, health care, arrear-ages, or reimbursement, and may include related costs and fees, interest, income withholding, attorney’s fees, and other relief.
- (22) ‘Tribunal’ means a court, administrative agency, or quasi-judicial entity authorized to establish, enforce, or modify support orders or to determine parentage.

SECTION 102. TRIBUNAL OF STATE. The [court, administrative agency, quasi-judicial entity, or combination] [is the tribunal] [are the tribunals] of this State.

SECTION 103. REMEDIES CUMULATIVE. Remedies provided by this [Act] are cumulative and do not affect the availability of remedies under other law.

ARTICLE 2. JURISDICTION

Part 1. Extended Personal Jurisdiction

SECTION 201. BASES FOR JURISDICTION OVER NONRESIDENT. In a proceeding to establish, enforce, or modify a support order or to determine parentage, a tribunal of this State may exercise personal jurisdiction over a non-resident individual [or the individual’s guardian or conservator] if:

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

SECTION 202. PROCEDURE WHEN EXERCISING JURISDICTION OVER NONRESIDENT. A tribunal of this State exercising personal jurisdiction over a nonresident under Section 201 may apply Section 316 (Special Rules of Evidence and Procedure) to receive evidence from another State, and Section 318 (Assistance with Discovery) to obtain discovery through a tribunal of another

State. In all other respects, Articles 3 through 7 do not apply and the tribunal shall apply the procedural and substantive law of this State, including the rules on choice of law other than those established by this [Act].

Part 2. Proceedings Involving Two or More States

SECTION 203. INITIATING AND RESPONDING TRIBUNAL OF STATE. Under this [Act], a tribunal of this State may serve as an initiating tribunal to forward proceedings to another State and as a responding tribunal for proceedings initiated in another State.

SECTION 204. SIMULTANEOUS PROCEEDINGS IN ANOTHER STATE.

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

SECTION 205. CONTINUING, EXCLUSIVE JURISDICTION.

- (a) A tribunal of this State issuing a support order consistent with the law of this State has continuing, exclusive jurisdiction over a child-support order:
 - (1) as long as this State remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order is issued; or
 - (2) until all of the parties who are individuals have filed written consents with the tribunal of this State for a tribunal of another State to modify the order and assume continuing, exclusive jurisdiction.
- (b) A tribunal of this State issuing a child-support order consistent with the law of this State may not exercise its continuing jurisdiction to modify the order if the order has been modified by a tribunal of another State pursuant to this [Act] or a law substantially similar to this [Act].
- (c) If a child-support order of this State is modified by a tribunal of another State pursuant to this [Act] or a law substantially similar to this [Act], a tribunal of this State loses its continuing, exclusive jurisdiction with regard to prospective enforcement of the order issued in this State, and may only:
 - (1) enforce the order that was modified as to amounts accruing before the modification;

- (2) enforce nonmodifiable aspects of that order; and
- (3) provide other appropriate relief for violations of that order which occurred before the effective date of the modification.
- (d) A tribunal of this State shall recognize the continuing, exclusive jurisdiction of a tribunal of another State which has issued a child-support order pursuant to this [Act] or a law substantially similar to this [Act].
- (e) A temporary support order issued ex parte or pending resolution of a jurisdictional conflict does not create continuing, exclusive jurisdiction in the issuing tribunal.
- (f) A tribunal of this State issuing a support order consistent with the law of this State has continuing, exclusive jurisdiction over a spousal-support order throughout the existence of the support obligation. A tribunal of this State may not modify a spousal-support order issued by a tribunal of another State having continuing, exclusive jurisdiction over that order under the law of that State.

SECTION 206. ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER BY TRIBUNAL HAVING CONTINUING JURISDICTION.

- (a) A tribunal of this State may serve as an initiating tribunal to request a tribunal of another State to enforce or modify a support order issued in that State.
- (b) A tribunal of this State having continuing, exclusive jurisdiction over a support order may act as a responding tribunal to enforce or modify the order. If a party subject to the continuing, exclusive jurisdiction of the tribunal no longer resides in the issuing State, in subsequent proceedings the tribunal may apply Section 316 (Special Rules of Evidence and Procedure) to receive evidence from another State and Section 318 (Assistance with Discovery) to obtain discovery through a tribunal of another State.
- (c) A tribunal of this State which lacks continuing, exclusive jurisdiction over a spousal-support order may not serve as a responding tribunal to modify a spousal-support order of another State.

Part 3. Reconciliation of Multiple Orders

SECTION 207. RECOGNITION OF CONTROLLING CHILD-SUPPORT ORDER.

- (a) If a proceeding is brought under this [Act] and only one tribunal has issued a child-support order, the order of that tribunal controls and must be so recognized.
- (b) If a proceeding is brought under this [Act], and two or more child-support orders have been issued by tribunals of this State or another State with regard to the same obligor and child, a tribunal of this State shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction:
 - (1) If only one of the tribunals would have continuing, exclusive jurisdiction under this [Act], the order of that tribunal controls and must be so recognized.
 - (2) If more than one of the tribunals would have continuing, exclusive jurisdiction under this [Act], an order issued by a tribunal in the cur-

rent home State of the child controls and must be so recognized, but if an order has not been issued in the current home State of the child, the order most recently issued controls and must be so recognized.

- (3) If none of the tribunals would have continuing, exclusive jurisdiction under this [Act], the tribunal of this State having jurisdiction over the parties shall issue a child-support order, which controls and must be so recognized.
- (c) If two or more child-support orders have been issued for the same obligor and child and if the obligor or the individual obligee resides in this State, a party may request a tribunal of this State to determine which order controls and must be so recognized under subsection (b). The request must be accompanied by a certified copy of every support order in effect. The requesting party shall give notice of the request to each party whose rights may be affected by the determination.
- (d) The tribunal that issued the controlling order under subsection (a), (b), or (c) is the tribunal that has continuing, exclusive jurisdiction under Section 205.
- (e) A tribunal of this State which determines by order the identity of the controlling order under subsection (b)(1) or (2) or which issues a new controlling order under subsection (b)(3) shall state in that order the basis upon which the tribunal made its determination.
- (f) Within [30] days after issuance of an order determining the identity of the controlling order, the party obtaining the order shall file a certified copy of it with each tribunal that issued or registered an earlier order of child support. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the controlling order.

SECTION 208. MULTIPLE CHILD-SUPPORT ORDERS FOR TWO OR MORE OBLIGEES. In responding to multiple registrations or [petitions] for enforcement of two or more child-support orders in effect at the same time with regard to the same obligor and different individual obligees, at least one of which was issued by a tribunal of another State, a tribunal of this State shall enforce those orders in the same manner as if the multiple orders had been issued by a tribunal of this State.

SECTION 209. CREDIT FOR PAYMENTS. Amounts collected and credited for a particular period pursuant to a support order issued by a tribunal of another State must be credited against the amounts accruing or accrued for the same period under a support order issued by the tribunal of this State.

ARTICLE 3. CIVIL PROVISIONS OF GENERAL APPLICATION

SECTION 301. PROCEEDINGS UNDER [ACT].

- (a) Except as otherwise provided in this [Act], this article applies to all proceedings under this [Act].
- (b) This [Act] provides for the following proceedings:
 - (1) establishment of an order for spousal support or child support pursuant to Article 4;

- (2) enforcement of a support order and income-withholding order of without registration pursuant to Article 5;
 - (3) registration of an order for spousal support or child support of another State for enforcement pursuant to Article 6;
 - (4) modification of an order for child support or spousal support tribunal of this State pursuant to Article 2, Part 2;
 - (5) registration of an order for child support of another State for pursuant to Article 6;
 - (6) determination of parentage pursuant to Article 7; and
 - (7) assertion of jurisdiction over nonresidents pursuant to Article 2, Part 1.
- (c) An individual [petitioner] or a support enforcement agency may commence a proceeding authorized under this [Act] 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 which has or can obtain personal jurisdiction over the [respondent].

SECTION 302. ACTION BY MINOR PARENT. A minor parent, or a guardian or other legal representative of a minor parent, may maintain a proceeding on behalf of or for the benefit of the minor child.

SECTION 303. APPLICATION OF LAW OF STATE. Except as otherwise provided by this [Act], a responding tribunal of this State:

- (1) shall apply the procedural and substantive law, including the rules on choice of law, generally applicable to similar proceedings originating in this State and may exercise all powers and provide all remedies available in those proceedings; and
- (2) shall determine the duty of support and the amount payable in accordance with the law and support guidelines of this State.

SECTION 304. DUTIES OF INITIATING TRIBUNAL.

- (a) Upon the filing of a [petition] authorized by this [Act], an initiating tribunal of this State shall forward three copies of the [petition] and its accompanying documents:
 - (1) to the responding tribunal or appropriate support enforcement agency in the responding State; or
 - (2) 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 a responding State has not enacted this [Act] or a law or procedure substantially similar to this [Act], a tribunal of this State may issue a certificate or other document and make findings required by the law of the responding State. If the responding State is a foreign jurisdiction, the tribunal may specify the amount of support sought and provide other documents necessary to satisfy the requirements of the responding State.

SECTION 305. DUTIES AND POWERS OF RESPONDING TRIBUNAL.

- (a) When a responding tribunal of this State receives a [petition] or comparable pleading from an initiating tribunal or directly pursuant to Section 301(c) (Proceedings Under this [Act]), it shall cause the [petition]

for pleading to be filed and notify the [petitioner] where and when it was filed.

- (b) A responding tribunal of this State, to the extent otherwise authorized by law, may do one or more of the following:
 - (1) issue or enforce a support order, modify a child-support order, or render a judgment to determine parentage;
 - (2) order an obligor to comply with a support order, specifying the amount and the manner of compliance;
 - (3) order income withholding;
 - (4) determine the amount of any arrearages, and specify a method of payment;
 - (5) enforce orders by civil or criminal contempt, or both;
 - (6) set aside property for satisfaction of the support order;
 - (7) place liens and order execution on the obligor's property;
 - (8) order an obligor to keep the tribunal informed of the obligor's current residential address, telephone number, employer, address of employment, and telephone number at the place of employment;
 - (9) issue a [bench warrant; capias] for an obligor who has failed after proper notice to appear at a hearing ordered by the tribunal and enter the [bench warrant; capias] in any local and state computer systems for criminal warrants;
 - (10) order the obligor to seek appropriate employment by specified methods;
 - (11) award reasonable attorney's fees and other fees and costs; and
 - (12) grant any other available remedy.
- (c) A responding tribunal of this State shall include in a support order issued under this [Act], or in the documents accompanying the order, the calculations on which the support order is based.
- (d) A responding tribunal of this State may not condition the payment of a support order issued under this [Act] upon compliance by a party with provisions for visitation.
- (e) If a responding tribunal of this State issues an order under this [Act], the tribunal shall send a copy of the order to the [petitioner] and the [respondent] and to the initiating tribunal, if any.

SECTION 306. INAPPROPRIATE TRIBUNAL. If a [petition] or a comparable pleading is received by an inappropriate tribunal of this State, it shall forward the pleading and accompanying documents to an appropriate tribunal in this State or another State and notify the [petitioner] where and when the pleading was sent.

SECTION 307. DUTIES OF SUPPORT ENFORCEMENT AGENCY.

- (a) A support enforcement agency of this State, upon request, shall provide services to a [petitioner] in a proceeding under this [Act].
- (b) A support enforcement agency that is providing services to the [petitioner] as appropriate shall:
 - (1) take all steps necessary to enable an appropriate tribunal in this State or another State to obtain jurisdiction over the [respondent];

- (2) request an appropriate tribunal to set a date, time, and place for a hearing;
 - (3) make a reasonable effort to obtain all relevant information, including information as to income and property of the parties;
 - (4) within [two] days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written notice from an initiating, responding, or registering tribunal, send a copy of the notice to the [petitioner];
 - (5) within [two] days, exclusive of Saturdays, Sundays, and legal holidays, after receipt of a written communication from the [respondent] or the [respondent's] attorney, send a copy of the communication to the [petitioner]; and
 - (6) notify the [petitioner] if jurisdiction over the [respondent] cannot be obtained.
- (c) This [Act] does not create or negate a relationship of attorney and client or other fiduciary relationship between a support enforcement agency or the attorney for the agency and the individual being assisted by the agency.

SECTION 308. DUTY OF [ATTORNEY GENERAL]. If the [Attorney General] determines that the support enforcement agency is neglecting or refusing to provide services to an individual, the [Attorney General] may order the agency to perform its duties under this [Act] or may provide these services directly to the individual.

SECTION 309. PRIVATE COUNSEL. An individual may employ private counsel to represent the individual in proceedings authorized by this [Act].

SECTION 310. DUTIES OF [STATE INFORMATION AGENCY].

- (a) The [Attorney General's Office, State Attorney's Office, State Central Registry or other information agency] is the state information agency under this [Act].
- (b) The state information agency shall:
 - (1) compile and maintain a current list, including addresses, of the tribunals in this State which have jurisdiction under this [Act] and any support enforcement agencies in this State and transmit a copy to the state information agency of every other State;
 - (2) maintain a register of tribunals and support enforcement agencies received from other States;
 - (3) forward to the appropriate tribunal in the place in this State in which the individual obligee or the obligor resides, or in which the obligor's property is believed to be located, all documents concerning a proceeding under this [Act] received from an initiating tribunal or the state information agency of the initiating State; and
 - (4) obtain information concerning the location of the obligor and the obligor's property within this State not exempt from execution, by such means as postal verification and federal or state locator services, examination of telephone directories, requests for the obligor's address from employers, and examination of governmental records, including, to the extent not prohibited by other law, those relating to real property, vital statistics, law enforcement, taxation, motor vehicles, driver's licenses, and social security.

SECTION 311. PLEADINGS AND ACCOMPANYING DOCUMENTS.

- (a) A [petitioner] seeking to establish or modify a support order or to determine parentage in a proceeding under this [Act] must verify the [petition]. Unless otherwise ordered under Section 312 on disclosure of Information in Exceptional Circumstances, the [petition] or accompanying documents must provide, so far as known, the name, residential address, and social security numbers of the obligor and the obligee, and the name, sex, residential address, social security number, and date of birth of each child for whom support is sought. The [petition] must be accompanied by a certified copy of any support order in effect. The [petition] may include any other information that may assist in locating or identifying the [respondent].
- (b) The [petition] must specify the relief sought. The [petition] and accompanying documents must conform substantially with the requirements imposed by the forms mandated by federal law for use in cases filed by a support enforcement agency.

SECTION 312. NONDISCLOSURE OF INFORMATION IN EXCEPTIONAL CIRCUMSTANCES. Upon a finding, which may be made ex parte, that the health, safety, or liberty of a party or child would be unreasonably put at risk by the disclosure of identifying information, or if an existing order so provides, a tribunal shall order that the address of the child or party or other identifying information not be disclosed in a pleading or other document filed in a proceeding under this [Act].

SECTION 313. 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 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, 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 Article 6 (Enforcement and Modification of Support Order After Registration), a hearing is presumed to have been requested primarily for delay if a registered support order is confirmed or enforced without change.

SECTION 314. LIMITED IMMUNITY OF [PETITIONER].

- (a) Participation by a [petitioner] in a proceeding before a responding tribunal, whether in person, by private attorney, or through services provided by the support enforcement agency, does not confer personal jurisdiction over the [petitioner] in another proceeding.
- (b) A [petitioner] is not amenable to service of civil process while physically present in this State to participate in a proceeding under this [Act].

- (c) The immunity granted by this section does not extend to civil litigation based on acts unrelated to a proceeding under this [Act] committed by a party while present in this State to participate in the proceeding.

SECTION 315. NONPARENTAGE AS DEFENSE. A party whose parentage of a child has been previously determined by or pursuant to law may not plead nonparentage as a defense to a proceeding under this [Act].

SECTION 316. SPECIAL RULES OF EVIDENCE AND PROCEDURE.

- (a) The physical presence of the [petitioner] in a responding tribunal is not required for the establishment, enforcement, or modification of an order or the rendition of a judgment determining parentage.
- (b) A verified [petition], affidavit, document substantially complying with federally mandated forms, and a document incorporated by reference in any of them, not excluded under the hearsay rule if given in person, is admissible in evidence if given under oath by a party or witness residing in another State.
- (c) A copy of the record of child-support payments certified as a true copy of the original by the custodian of the record may be forwarded to a responding tribunal. The copy is evidence of facts asserted in it, and is admissible to show whether payments were made.
- (d) Copies of bills for testing for parentage, and for prenatal and postnatal health care of the mother and child, furnished to the adverse party at least [ten] days before trial, are admissible in evidence to prove the amount of the charges billed and that the charges were reasonable, necessary, and customary.
- (e) Documentary evidence transmitted from another State to a tribunal of this State by telephone, telecopier, or other means that do not provide an original writing may not be excluded from evidence on an objection based on the means of transmission.
- (f) In a proceeding under this [Act], a tribunal of this State may permit a party or witness residing in another State to be deposed or to testify by telephone, audiovisual means or other electronic means at a designated tribunal or other location in that State. A tribunal of this State shall cooperate with tribunals of other States in designating an appropriate location for the deposition or testimony.
- (g) If a party called to testimony at a civil hearing refuses to answer on the ground that the testimony may be self-incriminating, the trier of fact may draw an adverse inference from the refusal.
- (h) A privilege against disclosure of communications between spouses does not apply in a proceeding under this [Act].
- (i) The defense of immunity based on the relationship of husband and wife or parent and child does not apply in a proceeding under this [Act].

SECTION 317. COMMUNICATIONS BETWEEN TRIBUNALS. A tribunal of this State may communicate with a tribunal of another State in writing, or by telephone or other means, to obtain information concerning the laws of that State, the legal effect of a judgment, decree, or order of that tribunal, and the status of a proceeding in the other State. A tribunal of this State may furnish similar information by similar means to a tribunal of another State.

SECTION 318. ASSISTANCE WITH DISCOVERY. A tribunal of this State may: (1) request a tribunal of another State to assist in obtaining discovery; and (2) upon request, compel a person over whom it has jurisdiction to respond to a discovery order issued by a tribunal of another State.

SECTION 319. RECEIPT AND DISBURSEMENT OF PAYMENTS. A support enforcement agency or tribunal of this State shall disburse promptly any amounts received pursuant to a support order, as directed by the order. The agency or tribunal shall furnish to a requesting party or tribunal of another State a certified statement by the custodian of the record of the amounts and dates of all payments received.

ARTICLE 4. ESTABLISHMENT OF SUPPORT ORDER

SECTION 401. [PETITION] TO ESTABLISH SUPPORT ORDER.

- (a) If a support order entitled to recognition under this [Act] has not been issued, a responding tribunal of this State may issue a support order if:
 - (1) the individual seeking the order resides in another State; or (2) the support enforcement agency seeking the order is located in another State.
- (b) The tribunal may issue a temporary child-support order if:
 - (1) the [respondent] has signed a verified statement acknowledging parentage;
 - (2) the [respondent] has been determined by or pursuant to law to be the parent; or
 - (3) there is other clear and convincing evidence that the [respondent] is the child's parent.
- (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 Section 305 (Duties and Powers of Responding Tribunal).

ARTICLE 5. ENFORCEMENT OF ORDER OF ANOTHER STATE WITHOUT REGISTRATION

SECTION 501. EMPLOYER'S RECEIPT OF INCOME-WITHHOLDING ORDER OF ANOTHER STATE. An income-withholding order issued in another State may be sent to the person or entity defined as the obligor's employer under [the income-withholding law of this State] without first filing a [petition] or comparable pleading or registering the order with a tribunal of this State.

SECTION 502. EMPLOYER'S COMPLIANCE WITH INCOME-WITHHOLDING ORDER OF ANOTHER STATE.

- (a) Upon receipt of an income-withholding order, the obligor's employer shall immediately provide a copy of the order to the obligor.
- (b) The employer shall treat an income-withholding order issued in another State which appears regular on its face as if it had been issued by a tribunal of this State.

- (c) Except as otherwise provided in subsection (d) and Section 503, the employer shall withhold and distribute the funds as directed in the withholding order by complying with terms of the order which specify:
 - (1) the duration and amount of periodic payments of current child support, stated as a sum certain;
 - (2) the person or agency designated to receive payments and the address to which the payments are to be forwarded;
 - (3) medical support, whether in the form of periodic cash payment, stated as a sum certain, or ordering the obligor to provide health insurance coverage for the child under a policy available through the obligor's employment;
 - (4) the amount of periodic payments of fees and costs for a support enforcement agency, the issuing tribunal, and the obligee's attorney, stated as sums certain; and
 - (5) the amount of periodic payments of arrearages and interest on arrearages, stated as sums certain.
- (d) An employer shall comply with the law of the State of the obligor's principal place of employment for withholding from income with respect to:
 - (1) the employer's fee for processing an income-withholding order;
 - (2) the maximum amount permitted to be withheld from the obligor's income; and
 - (3) the times within which the employer must implement the withholding order and forward the child support payment.

SECTION 503. COMPLIANCE WITH MULTIPLE INCOME-WITHHOLDING ORDERS. If an obligor's employer receives multiple income-withholding orders with respect to the earnings of the same obligor, the employer satisfies the terms of the multiple orders if the employer complies with the law of the State of the obligor's principal place of employment to establish the priorities for withholding and allocating income withheld for multiple child support obligees.

SECTION 504. IMMUNITY FROM CIVIL LIABILITY. An employer who complies with an income-withholding order issued in another State in accordance with this article is not subject to civil liability to an individual or agency with regard to the employer's withholding of child support from the obligor's income.

SECTION 505. PENALTIES FOR NONCOMPLIANCE. An employer who willfully fails to comply with an income-withholding order issued by another State and received for enforcement is subject to the same penalties that may be imposed for noncompliance with an order issued by a tribunal of this State.

SECTION 506. CONTEST BY OBLIGOR.

- (a) An obligor may contest the validity or enforcement of an income-withholding order issued in another State and received directly by an employer in this State in the same manner as if the order had been issued by a tribunal of this State. Section 604 (Choice of Law) applies to the contest.
- (b) The obligor shall give notice of the contest to:
 - (1) a support enforcement agency providing services to the obligee;
 - (2) each employer that has directly received an income-withholding order; and

- (3) the person or agency designated to receive payments in the income-withholding order or if no person or agency is designated, to the obligee.
- (c) 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 State 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 [Act].

ARTICLE 6. ENFORCEMENT AND MODIFICATION OF SUPPORT ORDER AFTER REGISTRATION

Part 1. Registration and Enforcement of Support Order

SECTION 601. REGISTRATION OF ORDER FOR ENFORCEMENT. A support order or an income-withholding order issued by a tribunal of another State may be registered in this State for enforcement.

SECTION 602. PROCEDURE TO REGISTER ORDER FOR ENFORCEMENT.

- (a) A support order or income-withholding order of another State may be registered in this State by sending the following documents and information to the [appropriate tribunal] in this State:
 - (1) a letter of transmittal to the tribunal requesting registration and enforcement;
 - (2) two copies, including one certified copy, of all orders to be registered, including any modification of an order;
 - (3) a sworn statement by the party seeking 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 this State not exempt from execution; and
 - (5) the name and address of the obligee and, if applicable, the agency or person 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 a foreign judgment, together with one copy of the documents and information, regardless of their form.
- (c) A [petition] or comparable pleading seeking a remedy that must be affirmatively sought under other law of this State may be filed at the same time

as the request for registration or later. The pleading must specify the grounds for the remedy sought.

SECTION 603. EFFECT OF REGISTRATION FOR ENFORCEMENT.

- (a) A support order or income-withholding order issued in another State is registered when the order is filed in the registering tribunal of this State.
- (b) A registered order issued in another State is enforceable in the same manner and is subject to the same procedures as an order issued by a tribunal of this State.
- (c) Except as otherwise provided in this article, a tribunal of this State shall recognize and enforce, but may not modify, a registered order if the issuing tribunal had jurisdiction.

SECTION 604. CHOICE OF LAW.

- (a) The law of the issuing State governs the nature, extent, amount, and duration of current payments and other obligations of support and the payment of arrearages under the order.
- (b) In a proceeding for arrearages, the statute of limitation under the laws of this State or of the issuing State, whichever is longer, applies.

Part 2. Contest of Validity or Enforcement

SECTION 605. NOTICE OF REGISTRATION OF ORDER.

- (a) When a support order or income-withholding order issued in another State is registered, the registering tribunal shall notify the nonregistering party. The notice must be accompanied by a copy of the registered order and the documents and relevant information accompanying the order.
- (b) The notice must inform the nonregistering party:
 - (1) that a registered order is enforceable as of the date of registration in the same manner as an order issued by a tribunal of this State;
 - (2) that a hearing to contest the validity or enforcement of the registered order must be requested within [20] days after notice;
 - (3) that failure to contest the validity or enforcement of the registered order in a timely manner will result in confirmation of the order and enforcement of the order and the alleged arrearages and precludes further contest of that order with respect to any matter that could have been asserted; and
 - (4) of the amount of any alleged arrearages.
- (c) Upon registration of an income-withholding order for enforcement, the registering tribunal shall notify the obligor's employer pursuant to [the income-withholding law of this State].

SECTION 606. PROCEDURE TO CONTEST VALIDITY OR ENFORCEMENT OF REGISTERED ORDER.

- (a) A nonregistering party seeking to contest the validity or enforcement of a registered order in this State shall request a hearing within [20] days after notice of the registration. The nonregistering party may seek to vacate the registration, to assert any defense to an allegation of noncompliance with the registered order, or to contest the remedies being sought or the

amount of any alleged arrearages pursuant to Section 607 (Contest of Registration or Enforcement).

- (b) If the nonregistering party fails to contest the validity or enforcement of the registered 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 order, the registering tribunal shall schedule the matter for hearing and give notice to the parties of the date, time, and place of the hearing.

SECTION 607. CONTEST OF REGISTRATION OR ENFORCEMENT.

- (a) A party contesting the validity or enforcement of a registered order or seeking to vacate the registration has the burden of proving one or more of the following defenses:
 - (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 this State to the remedy sought;
 - (6) full or partial payment has been made; or
 - (7) the statute of limitation under Section 604 (Choice of Law) precludes enforcement of some or all of the arrearages.
- (b) If a party presents evidence establishing a full or partial defense under subsection (a), a tribunal may stay enforcement of the registered order, continue the proceeding to permit production of additional relevant evidence, and issue other appropriate orders. An uncontested portion of the registered order may be enforced by all remedies available under the law of this State.
- (c) If the contesting party does not establish a defense under subsection (a) to the validity or enforcement of the order, the registering tribunal shall issue an order confirming the order.

SECTION 608. CONFIRMED ORDER. Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

Part 3. Registration And Modification of Child-Support Order

SECTION 609. PROCEDURE TO REGISTER CHILD-SUPPORT ORDER OF ANOTHER STATE FOR MODIFICATION. A party or support enforcement agency seeking to modify, or to modify and enforce, a child-support order issued in another State shall register that order in this State in the same manner provided in Part 1 if the order has not been registered. A [petition] for modification may be filed at the same time as a request for registration, or later. The pleading must specify the grounds for modification.

SECTION 610. EFFECT OF REGISTRATION FOR MODIFICATION. A tribunal of this State may enforce a child-support order of another State registered

for purposes of modification, in the same manner as if the order had been issued by a tribunal of this State, but the registered order may be modified only if the requirements of Section 611 (Modification of Child-Support Order of Another State) have been met.

SECTION 611. MODIFICATION OF CHILD-SUPPORT ORDER OF ANOTHER STATE.

- (a) After a child-support order issued in another State has been registered in this State, the responding tribunal of this State may modify that order only if Section 613 does not apply and after notice and hearing it finds that:
- (1) the following requirements are met:
 - (i) the child, the individual obligee, and the obligor do not reside in the issuing State;
 - (ii) a [petitioner] who is a nonresident of this State seeks modification; and
 - (iii) the [respondent] is subject to the personal jurisdiction of the tribunal of this State; or
 - (2) the child, or a party who is an individual, is subject to the personal jurisdiction of the tribunal of this State and all of the parties who are individuals have filed written consents in the issuing tribunal for a tribunal of this State to modify the support order and assume continuing, exclusive jurisdiction over the order. However, if the issuing State is a foreign jurisdiction that has not enacted a law or established procedures substantially similar to the procedures under this [Act], the consent otherwise required of an individual residing in this State is not required for the tribunal to assume jurisdiction to modify the child-support order.
- (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 this State and the order may be enforced and satisfied in the same manner.
- (c) A tribunal of this State may not modify any aspect of a child-support order that may not be modified under the law of the issuing State. If two or more tribunals have issued child-support orders for the same obligor and child, the order that controls and must be so recognized under Section 207 establishes the aspects of the support order which are nonmodifiable.
- (d) On issuance of an order modifying a child-support order issued in another State, a tribunal of this State becomes the tribunal having continuing, exclusive jurisdiction.

SECTION 612. RECOGNITION OF ORDER MODIFIED IN ANOTHER STATE. A tribunal of this State shall recognize a modification of its earlier child-support order by a tribunal of another State which assumed jurisdiction pursuant to this [Act] or a law substantially similar to this [Act] and, upon request, except as otherwise provided in this [Act], shall:

- (1) enforce the order that was modified only as to amounts accruing before the modification;
- (2) enforce only nonmodifiable aspects of that order;

- (3) provide other appropriate relief only for violations of that order which occurred before the effective date of the modification; and
- (4) recognize the modifying order of the other State, upon registration, for the purpose of enforcement.

SECTION 613. JURISDICTION TO MODIFY CHILD-SUPPORT ORDER OF ANOTHER STATE WHEN INDIVIDUAL PARTIES RESIDE IN THIS STATE.

- (a) If all of the parties who are individuals reside in this State and the child does not reside in the issuing State, a tribunal of this State has jurisdiction to enforce and to modify the issuing state's child-support order in a proceeding to register that order.
- (b) A tribunal of this State exercising jurisdiction under this section shall apply the provisions of Articles 1 and 2, this article, and the procedural and substantive law of this State to the proceeding for enforcement or modification. Articles 3, 4, 5, 7, and 8 do not apply.

SECTION 614. NOTICE TO ISSUING TRIBUNAL OF MODIFICATION.

Within [30] days after issuance of a modified child-support order, the party obtaining the modification shall file a certified copy of the order with the issuing tribunal that had continuing, exclusive jurisdiction over the earlier order, and in each tribunal in which the party knows the earlier order has been registered. A party who obtains the order and fails to file a certified copy is subject to appropriate sanctions by a tribunal in which the issue of failure to file arises. The failure to file does not affect the validity or enforceability of the modified order of the new tribunal having continuing, exclusive jurisdiction.

ARTICLE 7. DETERMINATION OF PARENTAGE

SECTION 701. PROCEEDING TO DETERMINE PARENTAGE.

- (a) A tribunal of this State may serve as an initiating or responding tribunal in a proceeding brought under this [Act] or a law or procedure substantially similar to this [Act], the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act to determine that the [petitioner] is a parent of a particular child or to determine that a [respondent] is a parent of that child.
- (b) In a proceeding to determine parentage, a responding tribunal of this State shall apply the [Uniform Parentage Act; procedural and substantive law of this State] and the rules of this State on choice of law.

ARTICLE 8. INTERSTATE RENDITION

SECTION 801. GROUNDS FOR RENDITION.

- (a) For purposes of this article, "governor" includes an individual performing the functions of governor or the executive authority of a State covered by this [Act].
- (b) The governor of this State may:
 - (1) demand that the governor of another State surrender an individual found in the other State who is charged criminally in this State with having failed to provide for the support of an obligee; or

- (2) on the demand by the governor of another State, surrender an individual found in this State who is charged criminally in the other State with having failed to provide for the support of an obligee.
- (c) A provision for extradition of individuals not inconsistent with this [Act] applies to the demand even if the individual whose surrender is demanded was not in the demanding State when the crime was allegedly committed and has not fled therefrom.

SECTION 802. CONDITIONS OF RENDITION.

- (a) Before making demand that the governor of another State surrender an individual charged criminally in this State with having failed to provide for the support of an obligee, the governor of this State may require a prosecutor of this State to demonstrate that at least [60] days previously the obligee had initiated proceedings for support pursuant to this [Act] or that the proceeding would be of no avail.
- (b) If, under this [Act] or a law substantially similar to this [Act], the Uniform Reciprocal Enforcement of Support Act, or the Revised Uniform Reciprocal Enforcement of Support Act, the governor of another State makes a demand that the governor of this State surrender an individual charged criminally in that State with having failed to provide for the support of a child or other individual to whom a duty of support is owed, the governor may require a prosecutor to investigate the demand and report whether a proceeding for support has been initiated or would be effective. If it appears that a proceeding would be effective but has not been initiated, the governor may delay honoring the demand for a reasonable time to permit the initiation of a proceeding.
- (c) If a proceeding for support has been initiated and the individual whose rendition is demanded prevails, the governor may decline to honor the demand. If the [petitioner] prevails and the individual whose rendition is demanded is subject to a support order, the governor may decline to honor the demand if the individual is complying with the support order.

ARTICLE 9. MISCELLANEOUS PROVISIONS

SECTION 901. UNIFORMITY OF APPLICATION AND CONSTRUCTION. This [Act] shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this [Act] among States enacting it.

SECTION 902. SHORT TITLE. This [Act] may be cited as the Uniform Interstate Family Support Act.

COMMENT

Renaming the Act reflects the dramatic departure from the structure of the earlier interstate reciprocal support acts, URESA and RURESAs.

SECTION 903. SEVERABILITY CLAUSE. If any provision of this [Act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can be given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.

SECTION 904. EFFECTIVE DATE. This [Act] takes effect _____.

SECTION 905. REPEALS. The following acts and parts of acts are hereby repealed:

(1) _____

(2) _____

(3) _____

G A P P E N D I X

RESTRAINING ORDER (ROSEANNE)

TROPE AND TROPE
12121 Wilshire Blvd.
Suite 801
Los Angeles, CA 90025-1171
ATTORNEY FOR (NAME) Petitioner

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES
STREET ADDRESS 111 NORTH HILL ST
MAILING ADDRESS
CITY AND ZIP CODE LOS ANGELES CA 90012
BRANCH NAME CENTRAL

ORIGINAL FILED

APR 18 1994

LOS ANGELES
SUPERIOR COURT

PETITIONER/PLAINTIFF: ROSEANNE CHERRIE ARNOLD

RESPONDENT/DEFENDANT: TOM DWAYNE ARNOLD

EX PARTE APPLICATION AND
ORDER TO SHOW CAUSE FOR MODIFICATION

- Child Custody Visitation Injunctive Orders
- Child Support Spousal Support Other (specify):
- Attorney Fees and Costs

CASE NUMBER:

HD155482

1. TO (name): TOM DWAYNE ARNOLD
2. YOU ARE ORDERED TO APPEAR IN THIS COURT AS FOLLOWS TO GIVE ANY LEGAL REASON WHY THE RELIEF SOUGHT IN THE ATTACHED APPLICATION SHOULD NOT BE GRANTED. If child custody or visitation is an issue in this proceeding, Family Code section 3170 requires mediation before or concurrently with the hearing listed below.

a. Date: 5-27-94 Time: 8:30 Dept: 20 Rm: 243

b. Address of court same as noted above other (specify):

3. IT IS FURTHER ORDERED that a completed Application for Order and Supporting Declaration, a blank Responsive Declaration, and the following documents shall be served with this order:

- (1) Completed Income and Expense Declaration and a blank Income and Expense Declaration
- (2) Completed Property Declaration and a blank Property Declaration
- (3) Points and authorities
- (4) Other (specify):

a. Time for service hearing is shortened. Service shall be on or before (date):
Any responsive declaration shall be served on or before (date):

b. You are ordered to comply with the temporary orders attached.

c. Other (specify): *Attorney for Respondent, Robert Schidke, has accepted service of the Petitioner and ESC on behalf of Respondent.*
**ROBERT SCHIDKE
JUDGE PRO TEM**

Date: APR 18 1994

JUDGE OF THE SUPERIOR COURT

Notice: If you have children from this relationship, the court is required to order payment of child support based on the income of both parents. The amount of child support can be large. It normally continues until the child is 18. You should supply the court with information about your finances. Otherwise the child support order will be based on the information supplied by the other parent.

You do not have to pay any fee to file responsive declarations in response to this order to show cause (including a completed Income and Expense Declaration that will show your finances). The original of the responsive declarations must be filed with the court and a copy served on the other party at least five court days before the hearing date.

TEMPORARY RESTRAINING ORDERS
(Attachment to Order to Show Cause)

The person restrained in the first three orders is (name): **TOM DWAYNE ARNOLD**
Race **White** Date of Birth **3/6/59** Sex **Male**

THE RESTRAINED PERSON

- 1 shall NOT contact, molest, attack, strike, threaten, sexually assault, batter, telephone, or otherwise disturb the peace of the other party, *and Petitioner shall not contact, molest, threaten, batter, telephone or otherwise disturb the peace of Respondent*
- 2 shall move out immediately and shall not return to the family dwelling at (address):

taking only clothing and personal affects needed until the hearing

3. a. must stay at least **100** yards away from the other party and the following places:

(1) Residence of (name): **Roseanne Cherrie Arnold**
(address optional): **12916 Evanston Street, Los Angeles, CA 90049**

This order is without prejudice to the time of the OSC hearing. Each party is ordered to stay away from that portion of the

(2) Place of work of (name): **CBS/MTM Studios**
(address optional): **Studio City, CA**

used exclusively by the other party.

(3) The children's school (address optional):

Petitioner is ordered to stay 100 yards from Respondent and 10 yards from Walker House, 10601 Walker Bl., Los Angeles.

(4) Other (specify): **Residence of Bill Pentland**

This order without prejudice

b. may make contact relating to pickup and delivery of children pursuant to a court order for visitation or a stipulation of the parties arrived at during mediation.

- Any person subject to any of these three restraining orders is prohibited by Penal Code section 12021 from purchasing or receiving or attempting to purchase or receive a firearm. Such conduct may be punishable by a \$1,000 fine, imprisonment up to one year, or both.
- Taking or concealing a child in violation of this order may be a felony and punishable by confinement in state prison, a fine, or both.
- Other violations of these orders may also be punishable by fines, imprisonment, or both.

4. **PROPERTY RESTRAINT**

a. Petitioner Respondent is restrained from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life.

The other party is to be notified of any proposed extraordinary expenditures and an accounting of such is to be made to the court.

b. Both parties are restrained and enjoined from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage including life, health, automobile, and disability held for the benefit of the parties or their minor child or children.

c. Neither party shall incur any debts or liabilities for which the other may be held responsible, other than in the ordinary course of business or for the necessities of life

(Continued on reverse)

MARRIAGE OF (last name, first name of parties):
ARNOLD, Roseanne and Tom

CASE NUMBER

TEMPORARY RESTRAINING ORDERS
(Family Law)

5 PROPERTY CONTROL

a. Petitioner Respondent is given the exclusive temporary use, possession, and control of the following property the parties own or are buying (specify): 12916 Evanston Street, Los Angeles, CA 90049

b. Petitioner Respondent is ordered to make the following payments on liens and encumbrances coming due while the order is in effect:

Debt	Amount of payment	Pay to
------	-------------------	--------

6. MINOR CHILDREN

a. Neither party shall remove the minor child or children of the parties

- (1) from the State of California.
- (2) other (specify):

b. Petitioner Respondent shall have the temporary physical custody, care, and control of the minor children of the parties, subject to the other party's rights of visitation as follows:

7. By the close of business on the date of this order, a copy of this order shall be delivered by the protected person to the law enforcement agency having jurisdiction over the residence of the protected person, who shall provide information to assist in identifying the restrained person. Proof of service of this order on the restrained person shall also be provided to the law enforcement agency. The law enforcement agency having jurisdiction over the plaintiff's residence is (name and address of agency): Los Angeles Police Department, West Los Angeles Division.

8. A copy of this order shall be given to the additional law enforcement agencies listed below as follows:

- a. Plaintiff shall deliver.
- b. Plaintiff's attorney shall deliver.
- c. The clerk of the court shall mail.

Law enforcement agency	Address
Los Angeles Police Department West Los Angeles Division	1663 Butler Avenue Los Angeles, CA 90025

9. This order is effective when made. The law enforcement agency shall enforce it immediately upon receipt. It is enforceable anywhere in California by any law enforcement agency that has received the order, is shown a copy of it, or has verified its existence on the California Law Enforcement Telecommunications System (CLETS). If proof of service on the restrained person has not been received, the law enforcement agency shall advise the restrained person of the terms of the order and then shall enforce it.

10. OTHER ORDERS (specify):

11. These orders expire on the date of the court hearing unless extended by the court.

Date: APR 18 1994



JUDGE OF THE SUPERIOR COURT

ROBERT SCHINDE
JUDGE PRO TEM

12. The date of the court hearing is (insert date when known)

EXHIBIT B

CLERK'S CERTIFICATE

MARRIAGE OF (last name, first name) 1989
ARNOLD, Roseanne and Tc

(THIS IS NOT AN ORDER)

Petitioner Respondent Claimant requests the following orders be made:

- CHILD CUSTODY To be ordered pending the hearing
- a. Child (name and age) b. Request custody to (name) c. Modify existing order
(1) filed on (date):
(2) ordering (specify):

2. CHILD VISITATION To be ordered pending the hearing
- a. Reasonable
b. Other (specify):
c. Neither party shall remove the minor child or children of the parties
(1) from the State of California. (2) other (specify):
- d. Modify existing order
(1) filed on (date):
(2) ordering (specify):

3. CHILD SUPPORT (A Wage and Earnings Assignment Order will be issued.)
- a. Child (name and age) b. Monthly amount
(if not by guideline)
\$ c. Modify existing order
(1) filed on (date):
(2) ordering (specify):

4. SPOUSAL SUPPORT (A Wage and Earnings Assignment Order will be issued.)
- a. Amount requested (monthly): \$
b. Modify existing order
(1) filed on (date):
(2) ordering (specify):
- c. Terminate existing order
(1) filed on (date):
(2) ordering (specify):

5. ATTORNEY FEES AND COSTS a. Fees: \$ b. Costs: \$

6. RESIDENCE EXCLUSION AND RELATED ORDERS To be ordered pending the hearing
- Petitioner Respondent must move out immediately and must not return to the family dwelling at (address):
- Taking only clothing and personal effects needed until the hearing.

7. STAY-AWAY ORDERS To be ordered pending the hearing
- a. Petitioner Respondent must stay at least 100... yards away from applicant and the following places
- (1) applicant's residence (address optional): 12916 Evanston Street, Los Angeles, CA 90049
(2) applicant's place of work (address optional): CBS/MIM Studios, Studio City, CA
(3) the children's school (address optional):
(4) other (specify):

- b. Contacts relating to pickup and delivery of children pursuant to a court order or a stipulation of the parties arrived at during mediation shall be permitted.

8. RESTRAINT ON PERSONAL CONDUCT To be ordered pending the hearing
- Petitioner Respondent
- a. shall not molest, attack, strike, threaten, sexually assault, or otherwise disturb the peace of the other party
 and any person under the care, custody, and control of the other party
- b. shall not contact or telephons the other party.
- c. except that peaceful contacts relating to minor children of the parties shall be permitted.

(Continued on reverse)

MARRIAGE OF (last name, first name of, vs):
ARNOLD, Roseanne and Tom

NUMBER

- 9 PROPERTY RESTRAINT To be ordered pending the hearing
- a The petitioner respondent claimant be restrained from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life
 and applicant be notified at least five business days before any proposed extraordinary expenditures and an accounting of such be made to the court.
- b Both parties are restrained and enjoined from cashing, borrowing against, canceling, transferring, disposing of, or changing the beneficiaries of any insurance or other coverage including life, health, automobile, and disability held for the benefit of the parties or their minor children.
- c Neither party shall incur any debts or liabilities for which the other may be held responsible, other than in the ordinary course of business or for the necessities of life.

- 10 PROPERTY CONTROL To be ordered pending the hearing
- a Petitioner Respondent be given the exclusive temporary use, possession, and control of the following property we own or are buying (specify): 12916 Evanston Street, Los Angeles, CA 90049
- b Petitioner Respondent be ordered to make the following payments on liens and encumbrances coming due while the order is in effect:
- | Debt | Amount of payment | Pay to |
|------|-------------------|--------|
|------|-------------------|--------|

- 11 LAW ENFORCEMENT AGENCIES I request that copies of orders be given to the following law enforcement agencies having jurisdiction over the locations where violence is likely to occur.
- | Law enforcement agency | Address |
|--|---|
| Los Angeles Police Department
West Los Angeles Division | 1663 Butler Avenue
Los Angeles, CA 90025 |


- 12 I request that time for service of the Order to Show Cause and accompanying papers be shortened so that they may be served no less than (specify number): days before the time set for the hearing. I need to have the order shortening time because of the facts specified in the attached declaration.

- 13 OTHER RELIEF (specify):

- 14 FACTS IN SUPPORT of relief requested and change of circumstances for any modification are (specify):
 contained in the attached declaration.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct
Date April 16, 1994

ROSEANNE CHERRIE ARNOLD
(TYPE OR PRINT NAME)


(SIGNATURE OF APPLICANT)

2 DECLARATION OF ROSEANNE ARNOLD

3
4 I, ROSEANNE ARNOLD, declare as follows:

5 1. I am the Petitioner in the instant action. The
6 facts stated herein are known by me to be true, and if called upon
7 to testify, I could and would testify competently thereto.

8 2. The Respondent and I married on January 20, 1990.
9 Throughout our marriage, the Respondent has been physically and
10 emotionally abusive toward me. I now realize that I have been a
11 classic battered and abused wife who has tolerated the conduct of
12 the Respondent only because the Respondent has successfully lowered
13 my self-esteem and reduced me into the realm of battered wife
14 syndrome.

15 3. Throughout our marriage, the Respondent hit me,
16 struck me, has thrown objects at me, pinched me, and verbally
17 abused me. He also has pushed me against walls, while he screams
18 and shouts at me, drowning out any possible plea that I might make
19 for him to stop.

20 4. I should note that the Respondent has a proclivity
21 and character for violence. He was arrested seven times for
22 drunken and disorderly behavior, assaulting police, and other
23 disorderly and violent conduct as a younger person.

24 5. In recent months, the Respondent's pattern of
25 violence has grown worse. I am now extremely afraid of him and am
26 extremely afraid for my physical safety. I am gravely concerned
27 that if the Respondent found out that I was filing for dissolution
28 of marriage, and seeking these restraining orders, that he would

2 immediately seek revenge in the form of violent retribution against
3 either me or some person who is important in my life. I am
4 therefore requesting that personal conduct restraining orders be
5 issued ex parte and without notice so as to minimize the
6 possibility of such violent retribution.

7 6. Most recently, on April 15, 1994, I attempted to
8 have the Respondent barred from access to the studio where I film
9 my television program. I arranged for several security personnel
10 to be present so as to prevent the Respondent from having access to
11 this area. Notwithstanding these efforts, the Respondent gained
12 access to the studio area and assaulted four people in a violent
13 episode. He scratched and hit these individuals.

14 7. Also on April 15, 1994, the Respondent gained access
15 to my personal residence located at 12916 Evanston Street, Los
16 Angeles, California 90049. Although I have a security system at my
17 residence, and attempted to prevent the Respondent from gaining
18 access thereto, he nonetheless did gain access to the residence and
19 threatened my children, none of whom are of my marriage to the
20 Respondent. My children's names and ages are Brandi Brown (age
21 23), Jessica Pentland (age 19), Jennifer Pentland (age 17½), and
22 James Pentland (age 15½), who reside with Bill Pentland. I called
23 the police at approximately 3:00 p.m. on April 15, 1994 to seek
24 their assistance in removing the Respondent from my property.

25 8. Respondent moved out of this residence approximately
26 six months ago pursuant to an agreement we made at that time. He
27 now resides in a condominium located at the Wilshire Towers on
28 Wilshire Boulevard. Since he no longer resides at the residence,

2 I am requesting that I be granted exclusive use, possession and
3 control of the residence located at 12916 Evanston Street. Since
4 the Respondent has moved out and has a residence of his own, this
5 will not pose any burden upon the Respondent.

6 9. On Saturday, April 9, 1994, my children, the
7 Respondent, and I were driving in my limousine en route to a movie
8 premiere. Without provocation, the Respondent grew angry and
9 violent, and grabbed my calf and twisted it. This caused me severe
10 pain and left a bruise. He did this in front of my children, which
11 was the first time that he had displayed his violent behavior in
12 front of my children.

13 10. A few days before that incident, we were in my
14 residence and had an argument. As a result of this argument, he
15 pushed me down on the bathroom floor, put his foot against my back,
16 and pulled at my hair. I was screaming in desperation for him to
17 relent, but he was screaming and shouting and ignoring my pleas.
18 This episode lasted several minutes, and I was extremely frightened
19 for my physical safety, if not my life.

20 11. Just a few days before this episode, he was in the
21 residence and pushed me up against the wall. He pinned me against
22 the wall and again was screaming loudly at me.

23 12. This type of pattern of violent and abusive behavior
24 has been recurrent throughout our marriage. However, such episodes
25 of violent and abusive behavior have become more frequent and more
26 violent in recent months. I have finally come to the realization
27 that I must not subject myself to his conduct. My life would be
28 ruined if I continue in this abusive relationship.

TROPE and TROPE
ATTORNEYS AT LAW
2121 HOLBROOK BLVD
LOS ANGELES, CA
90025-1111

DECLARATION OF ROSEANNE ARNOLD

EXHIBIT R

Page 3

2 13. The Respondent also has engaged in verbal abuse
3 against me. He has constantly referred to me as a "fuckin' bitch"
4 as well as other derogatory comments. He has a proclivity for
5 attempting to humiliate me in public by inappropriately and
6 unnecessarily revealing personal aspects of our life.

7 14. As a result of the foregoing, I am requesting that
8 restraining orders be issued against the Respondent so that he
9 cannot threaten, harass, annoy, or contact me. I am also
10 requesting that restraining orders be issued to prevent him from
11 coming near my residence or place of work. There is absolutely no
12 reason why the Respondent need go to either of these locations.
13 Again, I am also requesting that these restraining orders be issued
14 on an ex parte basis with no notice, because of the very real
15 possibility that the Respondent will seek violent revenge upon
16 learning of my filing for dissolution and my seeking of these
17 restraining orders.


18 15. I cannot overemphasize my grave fear of the
19 Respondent and the fear that I have for my physical safety and
20 well-being. This fear extends to individuals that are close to me.
21 For example, Respondent has threatened a security person who works
22 for me, Ben Thomas. He has literally threatened to kill Mr.
23 Thomas.

24 16. I certainly realize that the revelations that I am
25 making in this declaration will become a matter of public record
26 and will no doubt be exploited by certain parts of the news media,
27 in particular the tabloids. I have often been the subject of
28 humiliating stories in tabloid newspapers. However, I must make

2 these revelations at this time because of the conclusion that I
3 have reached that I cannot continue to live in a classic battered
4 wife syndrome mentality. I am earnestly seeking the assistance of
5 this court to separate myself from the Respondent and to remove his
6 threatening and violent character from my life.

7
8 I declare, under penalty of perjury, under the laws of the
9 State of California, that the foregoing is true and correct.

10 Executed April 16, 1994, at Los Angeles, California.

11
12 
13 ROSEANNE CHERRIE ARNOLD

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A P P E N D I X



H

**MARITAL SETTLEMENT AGREEMENT
(MADONNA AND SEAN PENN)**

MARITAL SETTLEMENT AGREEMENT

THIS AGREEMENT, made and entered into JANUARY 19, 1989, by and between SEAN PENN, hereinafter referred to as "Husband", and MADONNA CICCONE PENN, hereinafter referred to as "Wife":

WHEREAS, the parties hereto were lawfully married on August 16, 1985, and ever since then have been, and still are, Husband and Wife; and

WHEREAS, in consequence of unhappy differences and irreconcilable disputes which have arisen between Husband and Wife, as a result of which the parties have separated on December 31, 1988, and have not cohabited together since then, and are no longer living or cohabiting together as husband and wife; and

WHEREAS, there are no minor children who are the issue of the marriage of Husband and Wife; and

WHEREAS, it is the mutual wish and desire of both Husband and Wife to immediately effect, by way of a contract, a full, complete, and final settlement of all of their community property and quasi-community property interests, future and present, and, except as otherwise set forth herein, to irrevocably adjust and determine forever all legal obligations of any nature which may exist in respect to each other and by reason of their said

marriage, and to fully and completely resolve any and all issues relating to spousal support. This Agreement shall be effective irrespective of when or if a proceeding for dissolution of marriage is filed, a final decree of dissolution is entered, or this Marital Settlement Agreement is integrated into the decree of dissolution.

NOW, THEREFORE, by reason of the foregoing facts and in consideration of the mutual covenants and provisions hereinafter set forth, it is hereby agreed, by and between the parties, as follows:

PROPERTY AWARDED TO WIFE

FIRST: Husband hereby releases, sets over and assigns to Wife all right, title and interest and any claim to that certain real property located at 1 WEST 64th STREET, in the City of New York, State of New York, the legal description of which is attached as Exhibit "A" hereto (herein the "New York Apartment"). Husband shall quitclaim to Wife all of his right, title and interest to the New York Apartment.

PROPERTY AWARDED TO HUSBAND

SECOND: Wife hereby releases, sets over and assigns to Husband all right, title and interest and any claim to that certain real property located at 22271 Carbon Mesa Drive, Malibu,

California the legal description of which is attached as Exhibit "B" hereto (herein the "Malibu Residence"). Wife shall quitclaim to Husband all of her right, title and interest to the Malibu Residence. ~~Husband shall pay to Wife, within 180 days from the date of execution of this Agreement, the sum of \$_____ in order to equalize the difference in value between the Malibu property and the New York property.~~ Husband shall hold Wife harmless from, and pay all liens and encumbrances of record on the Malibu property and shall indemnify Wife from all claims connected with any such liens or encumbrances.

EXTENT OF COMMUNITY PROPERTY

THIRD: 1. The parties acknowledge that the only community property, quasi-community property or marital property owned by them is the Malibu Residence and New York Apartment. The parties have by other ^{VERBAL} agreement confirmed to each other their respective separate property interests in all other property owned by either of them. The parties further agree that the only community debt is the indebtedness on the Malibu residence secured by deeds of trust, which indebtedness (as between Husband and Wife) is expressly assumed by Husband.

PROPERTY WAIVER

FOURTH: 1. Both parties voluntarily waive the right to require each other to account to the other for any use of funds and property each has received or managed during their marriage or to set out in this Agreement a description of their respective assets and liabilities. Both parties voluntarily and expressly waive any requirement that the other provide a financial statement, or further information, in connection with this Agreement.

2. To the extent that there exists any property of any kind or description, or any interest in any property in the name of either of the parties or under either of their control or held for the benefit of either of them that is not otherwise described and/or disposed of herein, that property, real or personal, wherever situated, is awarded to the party in whose name said property is held or for whose benefit said property is held.

3. Each party hereby waives the right to investigate or value any property, or rights in and to property, either party has acquired during marriage or since the parties' separation.

4. The parties acknowledge and agree that, to the extent that any opportunities to examine, audit and appraise books, records and accounts and business interests of either party

has not been exercised, the parties hereby, now and forever, expressly waive the right to do so.

SECTION 1041 OF INTERNAL REVENUE CODE

Fifth: The parties intend and agree that all transfers of property as provided for herein are subject to the provisions of Section 1041, Internal Revenue Code of 195486, as amended, entitled "Treatment of Transfers of Property Between Spouses or Incident to Divorce", that they shall be accounted for and reported on his or her respective individual income tax returns in such a manner so that no gain or loss shall be recognized as a result of the division and transfer of property as provided herein. Each party shall file his or her Federal or State tax returns, and report his or her income and losses thereon, consistent with the foregoing intent of reporting the division and transfers of property as a non-taxable event. In the event either party causes an adjustment to basis to be made to their property that gives rise to any actual or alleged claim or liability for taxes, state or federal, the party making such adjustment shall defend, hold harmless and indemnify the other with respect to any such claim or liability.

RELEASE FROM THIRD-PARTY CLAIMS

SIXTH: 1. Husband shall indemnify, defend and hold Wife harmless from any and all other indebtedness, loans, obligations, claims and causes of action that have, may now or hereafter be made against Wife on her property as a result of any acts or omissions of Husband, judgments that may be obtained against Husband, debts, guarantees or obligations incurred by Husband on his own behalf or on behalf of any company, owned or controlled by him.

2. Wife shall indemnify, defend and hold Husband harmless from any and all other indebtedness, loans, obligations, claims and causes of action that have, may now or hereafter be made against Husband or his property as a result of any acts or omissions of Wife, judgments that may be obtained against Wife, debts, guarantees or obligations incurred by Wife on her own behalf or on behalf of any company, owned or controlled by her.

SPOUSAL SUPPORT WAIVER

SEVENTH: Both parties warrant and agree that they have each, individually, consulted with their respective legal counsel concerning their rights to spousal support. Each party is self-supporting and waives the right to claim spousal support, temporary spousal support, family support, maintenance or alimony from the other, now or at any time.

ATTORNEY'S FEES, ACCOUNTANT'S FEES AND COSTS

EIGHTH: Each party shall bear his or her own attorney's fees, accountant's fees, appraiser's fees, and all other fees and costs incurred with respect to this Agreement or any action to dissolve the marriage of the parties.

INDEPENDENTLY BINDING

NINTH: This Agreement, and all of its terms and conditions, shall be absolutely binding upon the parties hereto, regardless of whether any action to dissolve the marriage of the parties is filed. The parties agree that this Agreement may be submitted in evidence in any action that may be brought to dissolve their marriage, but its effectiveness is not subject to Court approval. The executory terms hereof may be incorporated into a Judgment of Dissolution of Marriage. The parties declare it to be their intention that this Agreement shall be absolutely binding upon them, regardless of whether this Agreement is ever presented to any court or approved or disapproved by a court.

RELEASE OF CLAIMS

TENTH: Except as otherwise provided in this Agreement, Husband and Wife hereby release the other from any and all liabilities, debts, or obligations of every kind whatsoever

including any claims arising out of any tortious conduct, heretofore incurred or hereafter incurred, and from any and all claims and demands of any kind, nature and description.

Further, Husband and Wife agree that this Release extends to all claims of every nature or kind, known or unknown, suspected or unsuspected each may have against the other and each further waives all rights under Section 1542 of the California Civil Code, which provides:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor."

RELEASE OF LIABILITY

ELEVENTH: A. Husband hereby warrants to Wife that he has not incurred, and hereby covenants that he will not incur, any liability or obligation on which Wife is liable or may be liable and Husband hereby covenants and agrees that if any claim, action or proceeding shall hereafter be brought seeking to hold Wife liable on account of any debt, liability, act or omission of Husband, he will, at his sole expense, defend Wife against any such claim or demand, whether or not well-founded, and he will hold her free and harmless therefrom. HUSBAND IS NOT RESPONSIBLE FOR PAYING FOR WIFES INDEPENDENT COUNSEL.

B. Wife hereby represents to Husband that she has not incurred, and hereby covenants that she will not incur, any liability or obligation on which Husband is liable or may be liable and Wife hereby covenants and agrees that if any claim, action or proceeding shall hereafter be brought seeking to hold Husband liable on account of any debt, liability, act or omission of Wife, she will, at her sole expense, defend Husband against any such claim or demand, whether or not well-founded, and she will hold him free and harmless therefrom.

RELEASE OF ESTATES AND SURVIVOR BENEFITS

TWELFTH: A. Husband and Wife hereby waive any and all right to inherit the estate of the other at his or her death, or to take property from the other by devise or bequest, unless under a Will executed subsequent to the effective date hereof, or to claim any family allowance or probate homestead, or to act as administrator or administratrix of the estate of the other, except as the nominee of another person legally entitled to said right, or to act as the executor or executrix under the Will of the other, unless under a Will executed subsequent to the effective date hereof.

B. Husband and Wife hereby waive any and all right to receive surviving spouse benefits under any private, non-governmental, pension or retirement plan in which either spouse is a participant.

REPRESENTATION OF LEGAL COUNSEL

THIRTEENTH: Each party to this Agreement represents and acknowledges that he or she has been represented in negotiations for and in the preparation of this Agreement by counsel or his or her own choosing. Each party has read this Agreement and has had it fully explained to him or her.

PROPERTY ACQUIRED AFTER SEPARATION

FOURTEENTH: The parties have separated and have lived apart since December 31, 1988. It is hereby agreed that any and all property (except the Malibu Residence and the New York Apartment) acquired by Husband and Wife from and after August 16, 1986, ~~the effective date of the Post-Marital Property Agreement,~~ is and shall be the sole and separate property of the one so acquiring the same, and does hereby waive any and all right in or to such acquisitions, as well as future acquisitions made from and after the date of this Agreement and does hereby grant the other all such acquisitions and future acquisitions of property as the sole and separate property of the one so acquiring same.

ENTIRE UNDERSTANDING

FIFTEENTH: This Agreement constitutes the full and entire understanding of the parties with respect to the parties' community property, quasi-community property and marital property and any prior agreement, understanding or representation concerning the same is hereby terminated and cancelled in its entirety and is of no further force or effect. This provision is to not be understood to limit, or deny the effectiveness of, that certain Separate Property Agreement of even date herewith ~~or the Post-Marital Property Agreement between the parties hereto~~. The parties hereto cannot alter and/or modify this Agreement, except by an instrument in writing executed by them and dated after the effective date hereof. This Agreement includes all of the representations of every kind and nature by the parties.

MODIFICATION

SIXTEENTH: No modification or waiver of any terms of this Agreement shall be valid as between the parties unless in writing and executed with the same formality of this Agreement; no waiver of any breach or default hereunder shall be deemed a waiver of any subsequent breach or default of the same or similar nature, no matter how made or how often occurring.

FREE OF COERCION

SEVENTEENTH: Each party hereto acknowledges that they are making this Agreement of their own free will and volition, and acknowledges that no coercion, force, pressure, or undue influence whatsoever has been employed against them in negotiations leading to or the execution of this Agreement, either by any other party hereto or by any other person or persons whomsoever, and declares that no reliance whatsoever is placed upon any representation other than those expressly set forth herein.

COUNTERPARTS

EIGHTEENTH: This Agreement may be executed in counterparts and each such counterpart shall be deemed to be an original.

EXECUTION OF DOCUMENTS AND RESERVATION OF JURISDICTION

NINETEENTH: The parties agree to perform all acts and to execute any documents necessary to effectuate and carry out the terms of this Agreement.

AGREEMENT SURVIVES INVALIDATION OF ANY PART

TWENTIETH: If any portion of this Agreement is held

to be illegal, unenforceable, void or voidable by any court, each of the remaining terms shall continue in full force as a separate contract.

RESOLUTION OF ALL ISSUES

TWENTY-FIRST: The parties acknowledge and understand that this Marital Settlement Agreement, and the Separate Property Agreement of even date ~~and the Post-Marital Property Agreement,~~ have resolved all issues between them.

CHANGES IN THE LAW

TWENTY-SECOND: Subsequent changes in California law, New York law or federal, through legislation or judicial interpretation, that creates or finds additional or different rights and obligations of the parties, shall not affect this Agreement.

PUBLIC RECORDS; INCORPORATION IN MARITAL PROCEEDING

TWENTY-THIRD: In the event that any court action is instituted concerning the subject matter of this Marital Settlement Agreement or in connection with a separation and/or dissolution of marriage, the parties agree that they will sign appropriate stipulations to cause this Marital Settlement Agreement and any and

all financial information of the parties to be placed under seal and not to be made public or part of any record. If the court directs that this Marital Settlement Agreement and said financial information to be made a part of the records, then the parties agree to request the court to place this Agreement and said financial information under seal and not allow this Agreement or said financial information to be seen read, reviewed or copied by anyone without the agreement of the parties, except as may be necessary to enforce the rights of either of the parties. The parties further agree that the court ~~shall be requested to approve this Marital Settlement Agreement as fair and equitable and to~~ ~~MAY~~ make specific orders requiring each party to do all of the things provided for in this Agreement and further agree that any executory provisions hereof shall be made a part of any decree entered by the court in a separation or dissolution proceeding. Notwithstanding incorporation or approval in any judgment or decree of this Marital Settlement Agreement or any of its terms, this Marital Settlement Agreement shall not be affected or altered in any way but shall continue to be fully independent and viable and enforceable to the same extent and by the same means and remedies as though such judgment had not been entered.

MISCELLANEOUS

TWENTY-FOURTH: This Agreement shall be binding upon, and shall enure to the benefit of the respective legatees,

devisees, heirs, executors, administrators, and assigns and successors in interest of the parties.

Each party agrees to not molest, harass, annoy, injure, threaten or interfere with the other party in any manner whatsoever or interfere with the use, ownership, enjoyment or disposition of any property now or hereafter owned or occupied by the other party.

"Property" as used herein is intended in its broadest and most comprehensive sense and includes real, personal and mixed real and personal property, tangible and intangible, and all earnings, interest, profits, appreciation and proceeds thereof and thereon, and insurance (and proceeds of insurance) thereon.

In the event any party hereto shall commence an action to enforce or receive damages or obtain any relief based on this Agreement, the prevailing party shall be entitled to recover, in addition to all other relief, reasonable attorneys fees fixed by the court in such action or in a separate action brought for that purpose.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the 19th day of January, 1989.

I, MADONNA CICCONE PENN, by my signature hereto, attest to my agreement to the terms and provisions of this Agreement. I have been advised as to the legal effect of the provisions of this Agreement by Michael K. Inglis, independent legal counsel chosen by me, and understand that I am, as a result of this Agreement, relinquishing certain rights as to properties which might and/or would, but for this Agreement, have been determined to be community

property, quasi-community property or marital property, or which I might have been entitled to receive had SEAN PENN died intestate or as dowry or its statutory equivalent or any other statutory share of a surviving spouse in the state or country in which he had died, owned property or was a resident or citizen. I understand all of the provisions of the Agreement and the rights which I am relinquishing as a result of the execution of the Agreement and the benefits I am receiving under the Agreement. I believe the benefits accruing to me under this Agreement are fair and reasonable. I have executed the Agreement without any influence on the part of SEAN PENN or any other party whomsoever and as a result of my own free volition. No oral statements or inducements, other than those contained herein, have been made as an inducement for me to sign this Agreement.

Madonna Ciccone Penn
 MADONNA CICCONE PENN - "WIFE"

STAT. NO. NN00627
 TO 1944 CA (1-83)

(Individual)

 **TICOR TITLE INSURANCE**

STATE OF CALIFORNIA
 COUNTY OF LOS ANGELES } ss.

On January 24, 1989 before me, the undersigned, a Notary Public in and for said State, personally appeared MADONNA CICCONE PENN

_____, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged that she executed the same.

WITNESS my hand and official seal.

Signature

Will M. Napolitano



↑ STAPLE HERE ↓

I, SEAN PENN, by my signature hereto, attest to my agreement to the terms and provisions of this Agreement. I have been advised as to the legal effect of the provisions of this Agreement by Robert Kaufman, independent legal counsel chosen by me, and understand that I am, as a result of this Agreement, relinquishing certain rights as to properties which might and/or would, but for this Agreement, have been determined to be community property, quasi-community property or marital property, or which I might have been entitled to receive had MADONNA CICCONE PENN dies intestate or as dowry or its statutory equivalent or any other statutory share of a surviving spouse in the state or country in which she died, owned property or was a resident or citizen. I understand all of the provisions of the Agreement and the rights which I am relinquishing as a result of the execution of the Agreement and the benefits I am receiving under the Agreement. I believe the benefits accruing to me under this Agreement are fair and reasonable. I have executed such Agreement without any influence on the part of MADONNA CICCONE PENN or any other party whomsoever and as a result of my own free volition. No oral statements or inducements, other than those contained herein, have been made as an inducement for me to sign the Agreement.


SEAN PENN - "HUSBAND"

GENERAL ACKNOWLEDGMENT

NO. 201

State of California
County of Los Angeles } ss.

On this the 19th day of January 1989, before me,

Tracie L. Marcelin

the undersigned Notary Public, personally appeared

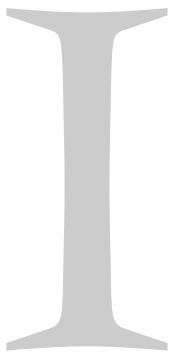
Sean Penn

personally known to me
 proved to me on the basis of satisfactory evidence
to be the person(s) whose name(s) is subscribed to the
within instrument, and acknowledged that no executed it.

WITNESS my hand and official seal.

Tracie L. Marcelin
Notary's Signature





A P P E N D I X

UNIFORM CHILD-CUSTODY JURISDICTION AND ENFORCEMENT ACT (1997)

[ARTICLE] 1 GENERAL PROVISIONS

SECTION 101. SHORT TITLE. This [Act] may be cited as the Uniform Child-Custody Jurisdiction and Enforcement Act.

SECTION 102. DEFINITIONS. In this [Act]:

- (1) 'Abandoned' means left without provision for reasonable and necessary care or supervision.
- (2) 'Child' means an individual who has not attained 18 years of age.
- (3) 'Child-custody determination' means a judgment, decree, or other order of a court providing for the legal custody, physical custody, or visitation with respect to a child. The term includes a permanent, temporary, initial, and modification order. The term does not include an order relating to child support or other monetary obligation of an individual.
- (4) 'Child-custody proceeding' means a proceeding in which legal custody, physical custody, or visitation with respect to a child is an issue. The term includes a proceeding for divorce, separation, neglect, abuse, dependency, guardianship, paternity, termination of parental rights, and protection from domestic violence, in which the issue may appear. The term does not include a proceeding involving juvenile delinquency, contractual emancipation, or enforcement under [Article] 3.
- (5) 'Commencement' means the filing of the first pleading in a proceeding.
- (6) 'Court' means an entity authorized under the law of a State to establish, enforce, or modify a child-custody determination.
- (7) 'Home State' means the State in which a child lived with a parent or a person acting as a parent for at least six consecutive months immediately before the commencement of a child-custody proceeding. In the case of a child less than six months of age, the term means the State in which the

child lived from birth with any of the persons mentioned. A period of temporary absence of any of the mentioned persons is part of the period.

- (8) 'Initial determination' means the first child-custody determination concerning a particular child.
- (9) 'Issuing court' means the court that makes a child-custody determination for which enforcement is sought under this [Act].
- (10) 'Issuing State' means the State in which a child-custody determination is made.
- (11) 'Modification' means a child-custody determination that changes, replaces, supersedes, or is otherwise made after a previous determination concerning the same child, whether or not it is made by the court that made the previous determination.
- (12) 'Person' means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government; governmental subdivision, agency, or instrumentality; public corporation; or any other legal or commercial entity.
- (13) 'Person acting as a parent' means a person, other than a parent, who:
 - (a) has physical custody of the child or has had physical custody for a period of six consecutive months, including any temporary absence, within one year immediately before the commencement of a child-custody proceeding; and
 - (b) has been awarded legal custody by a court or claims a right to legal custody under the law of this State.
- (14) 'Physical custody' means the physical care and supervision of a child.
- (15) 'State' means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.
- [(16) 'Tribe' means an Indian tribe or band, or Alaskan Native village, which is recognized by federal law or formally acknowledged by a State.]
- (17) 'Warrant' means an order issued by a court authorizing law enforcement officers to take physical custody of a child.

SECTION 103. PROCEEDINGS GOVERNED BY OTHER LAW. This [Act] does not govern an adoption proceeding or a proceeding pertaining to the authorization of emergency medical care for a child.

SECTION 104. APPLICATION TO INDIAN TRIBES.

- (a) A child-custody proceeding that pertains to an Indian child as defined in the Indian Child Welfare Act, 25 U.S.C. 1901 et seq., is not subject to this [Act] to the extent that it is governed by the Indian Child Welfare Act.
- [(b) A court of this State shall treat a tribe as if it were a State of the United States for the purpose of applying [Articles] 1 and 2.]
- [(c) A child-custody determination made by a tribe under factual circumstances in substantial conformity with the jurisdictional standards of this [Act] must be recognized and enforced under [Article] 3.]

SECTION 105. INTERNAL APPLICATION OF [ACT].

- (a) A court of this State shall treat a foreign country as if it were a State of the United States for the purpose of applying [Articles] 1 and 2.

- (b) Except as otherwise provided in subsection (c), a child-custody determination made in a foreign country under factual circumstances in substantial conformity with the jurisdiction standards of this [Act] must be recognized and enforced under Article 3.
- (c) A court of this State need not apply this [Act] if the child custody law of a foreign country violates fundamental principles of human rights.

SECTION 106. EFFECT OF CHILD-CUSTODY DETERMINATION. A child-custody determination made by a court of this State that had jurisdiction under this [Act] binds all persons who have been served in accordance with the laws of this State or notified in accordance with Section 108 or who have submitted to the jurisdiction of the court, and who have been given an opportunity to be heard. As to those persons, the determination is conclusive as to all decided issues of law and fact except to the extent the determination is modified.

SECTION 107. PRIORITY. If a question of existence or exercise of jurisdiction under this [Act] is raised in a child-custody proceeding, the question, upon request of a party, must be given priority on the calendar and handled expeditiously.

SECTION 108. NOTICE TO PERSONS OUTSIDE STATE.

- (a) Notice required for the exercise of jurisdiction when a person is outside this State may be given in a manner prescribed by the law of this State for service of process or by the law of the State in which the service is made. Notice must be given in a manner reasonably calculated to give actual notice but may be by publication if other means are not effective.
- (b) Proof of service may be made in the manner prescribed by the law of this State or by the law of the State in which the service is made.
- (c) Notice is not required for the exercise of jurisdiction with respect to a person who submits to the jurisdiction of the court.

SECTION 109. APPEARANCE AND LIMITED IMMUNITY.

- (a) A party to a child-custody proceeding, including a modification proceeding, or a petitioner or respondent in a proceeding to enforce or register a child-custody determination, is not subject to personal jurisdiction in this State for another proceeding or purpose solely by reason of having participated, or of having been physically present for the purpose of participating, in the proceeding.
- (b) A person who is subject to personal jurisdiction in this State on a basis other than physical presence is not immune from service of process in this State. A party present in this State who is subject to the jurisdiction of another State is not immune from service of process allowable under the laws of that State.
- (c) The immunity granted by subsection (a) does not extend to civil litigation based on acts unrelated to the participation in a proceeding under this [Act] committed by an individual while present in this State.

SECTION 110. COMMUNICATION BETWEEN COURTS.

- (a) A court of this State may communicate with a court in another State concerning a proceeding arising under this [Act].
- (b) The court may allow the parties to participate in the communication. If the parties are not able to participate in the communication, they must be

given the opportunity to present facts and legal arguments before a decision on jurisdiction is made.

- (c) Communication between courts on schedules, calendars, court records, and similar matters may occur without informing the parties. A record need not be made of the communication.
- (d) Except as otherwise provided in subsection (c), a record must be made of a communication under this section. The parties must be informed promptly of the communication and granted access to the record.
- (e) For the purposes of this section, 'record' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

SECTION 111. TAKING TESTIMONY IN ANOTHER STATE.

- (a) In addition to other procedures available to a party, a party to a child-custody proceeding may offer testimony of witnesses who are located in another State, including testimony of the parties and the child, by deposition or other means allowable in this State for testimony taken in another State. The court on its own motion may order that the testimony of a person be taken in another State and may prescribe the manner in which and the terms upon which the testimony is taken.
- (b) A court of this State may permit an individual residing in another State to be deposed or to testify by telephone, audiovisual means, or other electronic means before a designated court or at another location in that State. A court of this State shall cooperate with courts of other States in designating an appropriate location for the deposition or testimony.
- (c) Documentary evidence transmitted from another State to a court of this State by technological means that do not produce an original writing may not be excluded from evidence on an objection based on the means of transmission.

SECTION 112. COOPERATION BETWEEN COURTS; PRESERVATION OF RECORDS.

- (a) A court of this State may request the appropriate court of another State to:
 - (1) hold an evidentiary hearing;
 - (2) order a person to produce or give evidence pursuant to procedures of that State;
 - (3) order that an evaluation be made with respect to the custody of a child involved in a pending proceeding;
 - (4) forward to the court of this State a certified copy of the transcript of the record of the hearing, the evidence otherwise presented, and any evaluation prepared in compliance with the request; and
 - (5) order a party to a child-custody proceeding or any person having physical custody of the child to appear in the proceeding with or without the child.
- (b) Upon request of a court of another State, a court of this State may hold a hearing or enter an order described in subsection (a).
- (c) Travel and other necessary and reasonable expenses incurred under subsections (a) and (b) may be assessed against the parties according to the law of this State.

- (d) A court of this State shall preserve the pleadings, orders, decrees, records of hearings, evaluations, and other pertinent records with respect to a child-custody proceeding until the child attains 18 years of age. Upon appropriate request by a court or law enforcement official of another State, the court shall forward a certified copy of those records.

[ARTICLE] 2 JURISDICTION

SECTION 201. INITIAL CHILD-CUSTODY JURISDICTION.

- (a) Except as otherwise provided in Section 204, a court of this State has jurisdiction to make an initial child-custody determination only if:
 - (1) this State is the home State of the child on the date of the commencement of the proceeding, or was the home State of the child within six months before the commencement of the proceeding and the child is absent from this State but a parent or person acting as a parent continues to live in this State;
 - (2) a court of another State does not have jurisdiction under paragraph (1), or a court of the home State of the child has declined to exercise jurisdiction on the ground that this State is the more appropriate forum under Section 207 or 208, and:
 - (A) the child and the child's parents, or the child and at least one parent or a person acting as a parent, have a significant connection with this State other than mere physical presence; and
 - (B) substantial evidence is available in this State concerning the child's care, protection, training, and personal relationships;
 - (3) all courts having jurisdiction under paragraph (1) or (2) have declined to exercise jurisdiction on the ground that a court of this State is the more appropriate forum to determine the custody of the child under Section 207 or 208; or
 - (4) no court of any other State would have jurisdiction under the criteria specified in paragraph (1), (2), or (3).
- (b) Subsection (a) is the exclusive jurisdictional basis for making a child-custody determination by a court of this State.
- (c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child-custody determination.

SECTION 202. EXCLUSIVE, CONTINUING JURISDICTION.

- (a) Except as otherwise provided in Section 204, a court of this State which has made a child-custody determination consistent with Section 201 or 203 has exclusive, continuing jurisdiction over the determination until:
 - (1) a court of this State determines that neither the child, the child's parents, and any person acting as a parent do not have a significant connection with this State and that substantial evidence is no longer available in this State concerning the child's care, protection, training, and personal relationships; or
 - (2) a court of this State or a court of another State determines that the child, the child's parents, and any person acting as a parent do not presently reside in this State.

- (b) A court of this State which has made a child-custody determination and does not have exclusive, continuing jurisdiction under this section may modify that determination only if it has jurisdiction to make an initial determination under Section 201.

SECTION 203. JURISDICTION TO MODIFY DETERMINATION. Except as otherwise provided in Section 204, a court of this State may not modify a child-custody determination made by a court of another State unless a court of this State has jurisdiction to make an initial determination under Section 201(a)(1) or (2) and:

- (1) the court of the other State determines it no longer has exclusive, continuing jurisdiction under Section 202 or that a court of this State would be a more convenient forum under Section 207; or
- (2) a court of this State or a court of the other State determines that the child, the child's parents, and any person acting as a parent do not presently reside in the other State.

SECTION 204. TEMPORARY EMERGENCY JURISDICTION.

- (a) A court of this State has temporary emergency jurisdiction if the child is present in this State and the child has been abandoned or it is necessary in an emergency to protect the child because the child, or a sibling or parent of the child, is subjected to or threatened with mistreatment or abuse.
- (b) If there is no previous child-custody determination that is entitled to be enforced under this [Act] and a child-custody proceeding has not been commenced in a court of a State having jurisdiction under Sections 201 through 203, a child-custody determination made under this section remains in effect until an order is obtained from a court of a State having jurisdiction under Sections 201 through 203. If a child-custody proceeding has not been or is not commenced in a court of a State having jurisdiction under Sections 201 through 203, a child-custody determination made under this section becomes a final determination, if it so provides and this State becomes the home State of the child.
- (c) If there is a previous child-custody determination that is entitled to be enforced under this [Act], or a child-custody proceeding has been commenced in a court of a State having jurisdiction under Sections 201 through 203, any order issued by a court of this State under this section must specify in the order a period that the court considers adequate to allow the person seeking an order to obtain an order from the State having jurisdiction under Sections 201 through 203. The order issued in this State remains in effect until an order is obtained from the other State within the period specified or the period expires.
- (d) A court of this State which has been asked to make a child-custody determination under this section, upon being informed that a child-custody proceeding has been commenced in, or a child-custody determination has been made by, a court of a State having jurisdiction under Sections 201 through 203, shall immediately communicate with the other court. A court of this State which is exercising jurisdiction pursuant to Sections 201 through 203, upon being informed that a child-custody proceeding has

been commenced in, or a child-custody determination has been made by, a court of another State under a statute similar to this section shall immediately communicate with the court of that State to resolve the emergency, protect the safety of the parties and the child, and determine a period for the duration of the temporary order.

SECTION 205. NOTICE; OPPORTUNITY TO BE HEARD; JOINDER.

- (a) Before a child-custody determination is made under this [Act], notice and an opportunity to be heard in accordance with the standards of Section 108 must be given to all persons entitled to notice under the law of this State as in child-custody proceedings between residents of this State, any parent whose parental rights have not been previously terminated, and any person having physical custody of the child.
- (b) This [Act] does not govern the enforceability of a child-custody determination made without notice or an opportunity to be heard.
- (c) The obligation to join a party and the right to intervene as a party in a child-custody proceeding under this [Act] are governed by the law of this State as in child-custody proceedings between residents of this State.

SECTION 206. SIMULTANEOUS PROCEEDINGS.

- (a) Except as otherwise provided in Section 204, a court of this State may not exercise its jurisdiction under this [article] if, at the time of the commencement of the proceeding, a proceeding concerning the custody of the child has been commenced in a court of another State having jurisdiction substantially in conformity with this [Act], unless the proceeding has been terminated or is stayed by the court of the other State because a court of this State is a more convenient forum under Section 207.
- (b) Except as otherwise provided in Section 204, a court of this State, before hearing a child-custody proceeding, shall examine the court documents and other information supplied by the parties pursuant to Section 209. If the court determines that a child-custody proceeding has been commenced in a court in another State having jurisdiction substantially in accordance with this [Act], the court of this State shall stay its proceeding and communicate with the court of the other State. If the court of the State having jurisdiction substantially in accordance with this [Act] does not determine that the court of this State is a more appropriate forum, the court of this State shall dismiss the proceeding.
- (c) In a proceeding to modify a child-custody determination, a court of this State shall determine whether a proceeding to enforce the determination has been commenced in another State. If a proceeding to enforce a child-custody determination has been commenced in another State, the court may:
 - (1) stay the proceeding for modification pending the entry of an order of a court of the other State enforcing, staying, denying, or dismissing the proceeding for enforcement;
 - (2) enjoin the parties from continuing with the proceeding for enforcement; or
 - (3) proceed with the modification under conditions it considers appropriate.

SECTION 207. INCONVENIENT FORUM.

- (a) A court of this State which has jurisdiction under this [Act] to make a child-custody determination may decline to exercise its jurisdiction at any time if it determines that it is an inconvenient forum under the circumstances and that a court of another State is a more appropriate forum. The issue of inconvenient forum may be raised upon motion of a party, the court's own motion, or request of another court.
- (b) Before determining whether it is an inconvenient forum, a court of this State shall consider whether it is appropriate for a court of another State to exercise jurisdiction. For this purpose, the court shall allow the parties to submit information and shall consider all relevant factors, including:
 - (1) whether domestic violence has occurred and is likely to continue in the future and which State could best protect the parties and the child;
 - (2) the length of time the child has resided outside this State;
 - (3) the distance between the court in this State and the court in the State that would assume jurisdiction;
 - (4) the relative financial circumstances of the parties;
 - (5) any agreement of the parties as to which State should assume jurisdiction;
 - (6) the nature and location of the evidence required to resolve the pending litigation, including testimony of the child;
 - (7) the ability of the court of each State to decide the issue expeditiously and the procedures necessary to present the evidence; and
 - (8) the familiarity of the court of each State with the facts and issues in the pending litigation.
- (c) If a court of this State determines that it is an inconvenient forum and that a court of another State is a more appropriate forum, it shall stay the proceedings upon condition that a child-custody proceeding be promptly commenced in another designated State and may impose any other condition the court considers just and proper.
- (d) A court of this State may decline to exercise its jurisdiction under this [Act] if a child-custody determination is incidental to an action for divorce or another proceeding while still retaining jurisdiction over the divorce or other proceeding.

SECTION 203. JURISDICTION DECLINED BY REASON OF CONDUCT.

- (a) Except as otherwise provided in Section 204 [or by other law of this State], if a court of this State has jurisdiction under this [Act] because a person seeking to invoke its jurisdiction has engaged in unjustifiable conduct, the court shall decline to exercise its jurisdiction unless:
 - (1) the parents and all persons acting as parents have acquiesced in the exercise of jurisdiction;
 - (2) a court of the State otherwise having jurisdiction under Sections 201 through 203 determines that this State is a more appropriate forum under Section 207; or
 - (3) no court of any other State would have jurisdiction under the criteria specified in Sections 201 through 203.

- (b) If a court of this State declines to exercise its jurisdiction pursuant to subsection (a), it may fashion an appropriate remedy to ensure the safety of the child and prevent a repetition of the unjustifiable conduct, including staying the proceeding until a child-custody proceeding is commenced in a court having jurisdiction under Sections 201 through 203.
- (c) If a court dismisses a petition or stays a proceeding because it declines to exercise its jurisdiction pursuant to subsection (a), it shall assess against the party seeking to invoke its jurisdiction necessary and reasonable expenses including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees are sought establishes that the assessment would be clearly inappropriate. The court may not assess fees, costs, or expenses against this State unless authorized by law other than this [Act].

SECTION 209. INFORMATION TO BE SUBMITTED TO COURT.

- (a) [Subject to [local law providing for the confidentiality of procedures, addresses, and other identifying information], in] [In] a child-custody proceeding, each party, in its first pleading or in an attached affidavit, shall give information, if reasonably ascertainable, under oath as to the child's present address or whereabouts, the places where the child has lived during the last five years, and the names and present addresses of the persons with whom the child has lived during that period. The pleading or affidavit must state whether the party:
 - (1) has participated, as a party or witness or in any other capacity, in any other proceeding concerning the custody of or visitation with the child and, if so, identify the court, the case number, and the date of the child-custody determination, if any;
 - (2) knows of any proceeding that could affect the current proceeding, including proceedings for enforcement and proceedings relating to domestic violence, protective orders; termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding; and
 - (3) knows the names and addresses of any person not a party to the proceeding who has physical custody of the child or claims rights of legal custody or physical custody of, or visitation with, the child and, if so, the names and addresses of those persons.
- (b) If the information required by subsection (a) is not furnished, the court, upon motion of a party or its own motion, may stay the proceeding until the information is furnished.
- (c) If the declaration as to any of the items described in subsections (a)(1) through (3) is in the affirmative, the declarant shall give additional information under oath as required by the court. The court may examine the parties under oath as to details of the information furnished and other matters pertinent to the court's jurisdiction and the disposition of the case.
- (d) Each party has a continuing duty to inform the court of any proceeding in this or any other State that could affect the current proceeding.

(e) If a party alleges in an affidavit or a pleading under oath that the health, safety, or liberty of a party or child would be jeopardized by disclosure of identifying information, the information must be sealed and may not be disclosed to the other party or the public unless the court orders the disclosure to be made after a hearing in which the court takes into consideration the health, safety, or liberty of the party or child and determines that the disclosure is in the interest of justice.]

SECTION 210. APPEARANCE OF PARTIES AND CHILD.

- (a) In a child-custody proceeding in this State, the court may order a party to the proceeding who is in this State to appear before the court in person with or without the child. The court may order any person who is in this State and who has physical custody or control of the child to appear in person with the child.
- (b) If a party to a child-custody proceeding whose presence is desired by the court is outside this State, the court may order that a notice given pursuant to Section 108 include a statement directing the party to appear in person with or without the child and informing the party that failure to appear may result in a decision adverse to the party.
- (c) The court may enter any orders necessary to ensure the safety of the child and of any person ordered to appear under this section.
- (d) If a party to a child-custody proceeding who is outside this State is directed to appear under subsection (b) or desires to appear personally before the court with or without the child, the court may require another party to pay reasonable and necessary travel and other expenses of the party so appearing and of the child.

[ARTICLE] 3 ENFORCEMENT

SECTION 301. DEFINITIONS. In this [article]:

- (1) 'Petitioner' means a person who seeks enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Abduction or enforcement of a child-custody determination.
- (2) 'Respondent' means a person against whom a proceeding has been commenced for enforcement of an order for return of a child under the Hague Convention on the Civil Aspects of International Child Abduction or enforcement of a child-custody determination.

SECTION 302. ENFORCEMENT UNDER HAGUE CONVENTION. Under this [article] a court of this State may enforce an order for the return of the child made under the Hague Convention on the Civil Aspects of International Child Abduction as if it were a child-custody determination.

SECTION 303. DUTY TO ENFORCE.

- (a) A court of this State shall recognize and enforce a child-custody determination of a court of another State if the latter court exercised jurisdiction in substantial conformity with this [Act] or the determination was made under factual circumstances meeting the jurisdictional standards of this [Act] and the determination has not been modified in accordance with this [Act].

- (b) A court of this State may utilize any remedy available under other law of this State to enforce a child-custody determination made by a court of another State. The remedies provided in this [article] are cumulative and do not affect the availability of other remedies to enforce a child-custody determination.

SECTION 304. TEMPORARY VISITATION.

- (a) A court of this State which does not have jurisdiction to modify a child-custody determination, may issue a temporary order enforcing:
 - (1) a visitation schedule made by a court of another State; or (2) the visitation provisions of a child-custody determination of another State that does not provide for a specific visitation schedule.
- (b) If a court of this State makes an order under subsection (a)(2), it shall specify in the order a period that it considers adequate to allow the petitioner to obtain an order from a court having jurisdiction under the criteria specified in [Article] 2. The order remains in effect until an order is obtained from the other court or the period expires.

SECTION 305. REGISTRATION OF CHILD-CUSTODY DETERMINATION.

- (a) A child-custody determination issued by a court of another State may be registered in this State, with or without a simultaneous request for enforcement, by sending to [the appropriate court] in this State:
 - (1) a letter or other document requesting registration;
 - (2) two copies, including one certified copy, of the determination sought to be registered, and a statement under penalty of perjury that to the best of the knowledge and belief of the person seeking registration the order has not been modified; and
 - (3) except as otherwise provided in Section 209, the name and address of the person seeking registration and any parent or person acting as a parent who has been awarded custody or visitation in the child-custody determination sought to be registered.
- (b) On receipt of the documents required by subsection (a), the registering court shall:
 - (1) cause the determination to be filed as a foreign judgment, together with one copy of any accompanying documents and information, regardless of their form; and
 - (2) serve notice upon the persons named pursuant to subsection (a)(3) and provide them with an opportunity to contest the registration in accordance with this section.
- (c) The notice required by subsection (b)(2) must state that:
 - (1) a registered determination is enforceable as of the date of the registration in the same manner as a determination issued by a court of this State;
 - (2) a hearing to contest the validity of the registered determination must be requested within 20 days after service of notice; and
 - (3) failure to contest the registration will result in confirmation of the child-custody determination and preclude further contest of that determination with respect to any matter that could have been asserted.
- (d) A person seeking to contest the validity of a registered order must request a hearing within 20 days after service of the notice. At that hearing, the

court shall confirm the registered order unless the person contesting registration establishes that:

- (1) the issuing court did not have jurisdiction under [Article] 2;
 - (2) the child-custody determination sought to be registered has been vacated, stayed, or modified by a court having jurisdiction to do so under [Article] 2; or
 - (3) the person contesting registration was entitled to notice, but notice was not given in accordance with the standards of Section 108, in the proceedings before the court that issued the order for which registration is sought.
- (e) If a timely request for a hearing to contest the validity of the registration is not made, the registration is confirmed as a matter of law and the person requesting registration and all persons served must be notified of the confirmation.
- (f) Confirmation of a registered order, whether by operation of law or after notice and hearing, precludes further contest of the order with respect to any matter that could have been asserted at the time of registration.

SECTION 306. ENFORCEMENT OF REGISTERED DETERMINATION.

- (a) A court of this State may grant any relief normally available under the law of this State to enforce a registered child-custody determination made by a court of another State.
- (b) A court of this State shall recognize and enforce, but may not modify, except in accordance with [Article] 2, a registered child-custody determination of a court of another State.

SECTION 307. SIMULTANEOUS PROCEEDINGS. If a proceeding for enforcement under this [article] is commenced in a court of this state and the court determines that a proceeding to modify the determination is pending in a court of another State having jurisdiction to modify the determination under [Article] 2, the enforcing court shall immediately communicate with the modifying court. The proceeding for enforcement continues unless the enforcing court, after consultation with the modifying court, stays or dismisses the proceeding.

308. EXPEDITED ENFORCEMENT OF CHILD-CUSTODY DETERMINATION.

- (a) A petition under this [article] must be verified. Certified copies of all orders sought to be enforced and of any order confirming registration must be attached to the petition. A copy of a certified copy of an order may be attached instead of the original.
- (b) A petition for enforcement of a child-custody determination must state:
- (1) whether the court that issued the determination identified the jurisdictional basis it relied upon in exercising jurisdiction and, if so, what the basis was;
 - (2) whether the determination for which enforcement is sought has been vacated, stayed, or modified by a court whose decision must be enforced under this [Act] and, if so, identify the court, the case number, and the nature of the proceeding;
 - (3) whether any proceeding has been commenced that could affect the current proceeding, including proceedings relating to domestic

- violence, protective orders, termination of parental rights, and adoptions and, if so, identify the court, the case number, and the nature of the proceeding;
- (4) the present physical address of the child and the respondent, if known;
 - (5) whether relief in addition to the immediate physical custody of the child and attorney's fees is sought, including a request for assistance from [law enforcement officials] and, if so, the relief sought; and
 - (6) if the child-custody determination has been registered and confirmed under Section 305, the date and place of registration.
- (c) Upon the filing of a petition, the court shall issue an order directing the respondent to appear in person with or without the child at a hearing and may enter any order necessary to ensure the safety of the parties and the child. The hearing must be held on the next judicial day after service of the order unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The court may extend the date of hearing at the request of the petitioner.
- (d) An order issued under subsection (c) must state the time and place of the hearing and advise the respondent that at the hearing the court will order that the petitioner may take immediate physical custody of the child and the payment of fees, costs, and expenses under Section 312, and may schedule a hearing to determine whether further relief is appropriate, unless the respondent appears and establishes that:
- (1) the child-custody determination has not been registered and confirmed under Section 305 and that:
 - (A) the issuing court did not have jurisdiction under [Article] 2;
 - (B) the child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court having jurisdiction to do so under [Article] 2;
 - (C) the respondent was entitled to notice, but notice was not given in accordance with the standards of Section 108, in the proceedings before the court that issued the order for which enforcement is sought; or
 - (2) the child-custody determination for which enforcement is sought was registered and confirmed under Section 304, but has been vacated, stayed, or modified by a court of a State having jurisdiction to do so under [Article] 2.

SECTION 309. SERVICE OF PETITION AND ORDER. Except as otherwise provided in Section 311, the petition and order must be served, by any method authorized [by the law of this State], upon respondent and any person who has physical custody of the child.

SECTION 310. HEARING AND ORDER.

- (a) Unless the court issues a temporary emergency order pursuant to Section 204, upon a finding that a petitioner is entitled to immediate physical custody of the child, the court shall order that the petitioner may take immediate physical custody of the child unless the respondent establishes that:
- (1) the child-custody determination has not been registered and confirmed under Section 305 and that:

- (A) the issuing court did not have jurisdiction under [Article] 2;
 - (B) the child-custody determination for which enforcement is sought has been vacated, stayed, or modified by a court of a State having jurisdiction to do so under [Article] 2; or
 - (C) the respondent was entitled to notice, but notice was not given in accordance with the standards of Section 108, in the proceedings before the court that issued the order for which enforcement is sought; or
- (2) the child-custody determination for which enforcement is sought was registered and confirmed under Section 305 but has been vacated, stayed, or modified by a court of a State having jurisdiction to do so under [Article] 2.
- (b) The court shall award the fees, costs, and expenses authorized under Section 312 and may grant additional relief, including a request for the assistance of [law enforcement officials], and set a further hearing to determine whether additional relief is appropriate.
 - (c) If a party called to testify refuses to answer on the ground that the testimony may be self-incriminating, the court may draw an adverse inference from the refusal.
 - (d) A privilege against disclosure of communications between spouses and a defense of immunity based on the relationship of husband and wife or parent and child may not be invoked in a proceeding under this [article].

SECTION 311. WARRANT TO TAKE PHYSICAL CUSTODY OF CHILD.

- (a) Upon the filing of a petition seeking enforcement of a child-custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is immediately likely to suffer serious physical harm or be removed from this State.
- (b) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this State, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by Section 308(b).
- (c) A warrant to take physical custody of a child must:
 - (1) recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;
 - (2) direct law enforcement officers to take physical custody of the child immediately; and
 - (3) provide for the placement of the child pending final relief
- (d) The respondent must be served with the petition, warrant, and order immediately after the child is taken into physical custody.
- (e) A warrant to take physical custody of a child is enforceable throughout this State. If the court finds on the basis of the testimony of the petitioner or other witness that a less intrusive remedy is not effective, it may authorize law enforcement officers to enter private property to take physical custody of the child. If required by exigent circumstances of the case, the

court may authorize law enforcement officers to make a forcible entry at any hour.

- (f) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

SECTION 312. COSTS, FEES, AND EXPENSES.

- (a) The court shall award the prevailing party, including a State, necessary and reasonable expenses incurred by or on behalf of the party, including costs, communication expenses, attorney's fees, investigative fees, expenses for witnesses, travel expenses, and child care during the course of the proceedings, unless the party from whom fees or expenses are sought establishes that the award would be clearly inappropriate.
- (b) The court may not assess fees, costs, or expenses against a State unless authorized by law other than this [Act].

SECTION 313. RECOGNITION AND ENFORCEMENT. A court of this State shall accord full faith and credit to an order issued by another State and consistent with this [Act] which enforces a child-custody determination by a court of another State unless the order has been vacated, stayed, or modified by a court having jurisdiction to do so under [Article] 2.

SECTION 314. APPEALS. An appeal may be taken from a final order in a proceeding under this [article] in accordance with [expedited appellate procedures in other civil cases]. Unless the court enters a temporary emergency order under Section 204, the enforcing court may not stay an order enforcing a child-custody determination pending appeal.

SECTION 315. ROLE OF [PROSECUTOR OR PUBLIC OFFICIAL].

- (a) In a case arising under this [Act] or involving the Hague Convention on the Civil Aspects of International Child Abduction, the [prosecutor or other appropriate public official] may take any lawful action, including resort to a proceeding under this [article] or any other available civil proceeding to locate a child, obtain the return of a child, or enforce a child-custody determination if there is:
 - (1) an existing child-custody determination;
 - (2) a request to do so from a court in a pending child-custody proceeding;
 - (3) a reasonable belief that a criminal statute has been violated; or
 - (4) a reasonable belief that the child has been wrongfully removed or retained in violation of the Hague Convention on the Civil Aspects of International Child Abduction.
- (b) A [prosecutor or appropriate public official] acting under this section acts on behalf of the court and may not represent any party.

SECTION 316. ROLE OF [LAW ENFORCEMENT]. At the request of a [prosecutor or other appropriate public official] acting under Section 315, a [law enforcement officer] may take any lawful action reasonably necessary to locate a child or a party and assist [a prosecutor or appropriate public official] with responsibilities under Section 315.

SECTION 317. COSTS AND EXPENSES. If the respondent is not the prevailing party, the court may assess against the respondent all direct expenses and costs incurred by the [prosecutor or other appropriate public official] and [law enforcement officers] under Section 315 or 316.

[ARTICLE] 4**MISCELLANEOUS PROVISIONS**

SECTION 401. APPLICATION AND CONSTRUCTION. In applying and construing this Uniform Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among States that enact it.

SECTION 402. SEVERABILITY CLAUSE. If any provision of this [Act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can be given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.

SECTION 403. EFFECTIVE DATE. This [Act] takes effect _____.

SECTION 404. REPEALS. The following acts and parts of acts are hereby repealed:

(1) The Uniform Child Custody Jurisdiction Act;

(2) _____

(3) _____

SECTION 405. TRANSITIONAL PROVISION. A motion or other request for relief made in a child-custody proceeding or to enforce a child-custody determination which was commenced before the effective date of this [Act] is governed by the law in effect at the time the motion or other request was made.

J

A P P E N D I X

GUIDES FOR DISTANCE LEARNING AND LEGAL RESEARCH

DISTANCE LEARNING

Distance learning presents you with wonderful opportunities for learning, growing, and expanding your personal and professional horizons. At the same time, it provides you with a number of unique challenges. The whole world is your classroom, yet you don't have the physical presence of classmates. The flexibility and excitement of this kind of learning can build your confidence while it develops your mind. However, it may sometimes seem overwhelming or lonely. We have included this appendix to help make your distance learning experience rewarding, invigorating, and successful.

Do's and Don'ts

- ▼ **DO** stay motivated. Write down your goals. Join Internet legal networks. Access on-line universities and associations. Keep a journal of your obstacles and successes. Reward yourself for work well done.
- ▼ **DO** become proficient in using the Internet. Really learn to navigate the World Wide Web. This technology provides abundant useful and free resources for your research. Learn how to use the search engines (particularly Yahoo, Infoseek, Snap, and Lycos). Utilize newsgroups; participate in forums.
- ▼ **DO** learn "netiquette"; for example, writing in all capital letters is considered yelling. A number of web sites will teach this (look up "netiquette" in Yahoo for a list of places that teach it). Remember that when you write your reader does not have the luxury of seeing your body language or hearing the tone of your voice.
- ▼ **DON'T** isolate yourself. Consider joining a local paralegal association, attending trials, and contacting your local courthouse for copies of forms.

- ▼ **DON'T** be afraid of new ideas—even radical new ideas.
- ▼ **DO** expect to feel overwhelmed or discouraged *sometimes*.
- ▼ **DON'T** give in to negative self-talk or challenging material. You can do it!
- ▼ **DO** make suggestions to your school. **DO** ask them for help when you need to.
- ▼ **DO** ask for support from your family and friends.
- ▼ **DO** be flexible, open-minded, willing to learn new ideas and “roll with the punches.”
- ▼ **DO** have fun, be creative, and study well.

Distance Learning Support, Mentoring, and Study Aid Sites

Distance Learning Support and Mentoring

<http://maxpages.com/edsupport>

Provides help studying, note-taking, reading, and comprehending challenging material, test-taking, outlining, grammar, and writing skills. Includes advice on time management and balancing priorities. Offers virtual one-on-one tutoring and mentoring support for distance learners and nontraditional students. Check this one out!

Study Guides and Strategies

<http://www.lss.stthomas.edu/studyguides/>

Provides information on study preparation, studying, testing skills, writing skills, and reading skills.

Brain Dancing for Students

<http://braindance.com/>

Provides tips on how to enhance memory, improve reading, manage information, enhance mental clarity, and optimize web browsing. Great site!

Eggleston's Distance Education Resources

<http://www.the-eggman.com>

Provides extensive information about and links to distance learning support services, consultants, newsgroups, government resources, and more.

Study Guide for Distance Education

<http://www.gwu.edu/~etl/deguide>

Provides general information about distance education. Topics include “Fundamentals of Distance Education” and “The Distance Education Student.”

Distance Learning on the Net

<http://www.hoyle.com/distance>

Provides descriptions of and links to distance education sites. Very user-friendly. Excellent guide.

Distance Education Clearinghouse

<http://www.uwex.edu/disted/>

Provides articles, bibliography, resources, and general information about distance education.

LEGAL RESEARCH

Hot Legal Web Sites

Take advantage of any links these sites provide. Cross-reference. Use keywords in general search engines (Yahoo, etc.) to find more! If you don't know where to find a particular search engine, use the default engine in your computer and type in the name of the search engine you're looking for. If your search does not reveal the site you are looking for, try typing the address without the *www* prefix or try adding the suffix *html* or *htm*.

LEGAL RESEARCH SITES

Nolo Press Self-Help Law Center

<http://www.nolo.com>

Discusses *how* to do legal research. A must see!

LawCrawler

<http://www.lawcrawler.com>

Use keywords to find documents for your subject. Provides links directly to sites.

Findlaw

<http://www.findlaw.com>

Allows user to search specific areas and continually narrow down and focus research.

Lawsources, Inc.

<http://www.lawsources.com>

Lets you research by jurisdiction. Includes Canada and Mexico.

Law Journal Extra!

<http://www.ljx.com>

Contains electronic versions of print periodicals, employment information, law firm listings.

Substantive Law on the World Wide Web

<http://www.mother.com/~randy/law>

Provides links to state and federal statutes and case law. Links to specific areas of law (bankruptcy, family, criminal, etc.).

Law Guru

<http://www.lawguru.com>

Provides links to specific areas of legal research.

FastSearch

<http://www.fastsearch.com>

Includes four search engines—be sure to click on “the law engine.”

UNIVERSITIES AND LAW SCHOOLS

Chicago–Kent College of Law: <http://www.kentlaw.edu>

Cornell Law School: <http://www.law.cornell.edu/library>

Emory Law Library: <http://www.law.emory.edu/law/refdesk/reference/legal>

COURTS, COURT INFORMATION, AND GOVERNMENT AGENCIES

Court Decisions on the Web

<http://www.stanford.edu/group/law/library/how/web-courts>

Allows user to choose jurisdiction and find decisions. Provides state, national, and international data.

The Courthouse

<http://www.ljextra.com>

Provides access to circuit court database (Supreme, federal, and state).

Internal Revenue Service Home Page

<http://www.irs.ustreas.gov/prod/cover>

Home of the IRS. Can access general tax information and specific treasury regulations.

Legal and Government Forms

Online legal forms from Versuslaw:

<http://www.versuslaw.com/versuslaw/forms>

Findlaw's forms collections and indexes:

<http://www.findlaw.com/16forms/index>

The 'Lectric Library's forms room: <http://www.lectlaw.com>

PROFESSIONAL ASSOCIATIONS

American Bar Association: <http://www.abanet.org>

Association of Legal Administrators: <http://www.alanet.org>

National Association of Legal Assistants: <http://www.nalanet.org>

National Federation of Paralegal Associations: <http://www.paralegals.org>

LEGAL EMPLOYMENT

Law Journal Extra! Law Employment Center

<http://www.lawjobs.com>

Draws from ads in various law journals. Regional focus (New York, New Jersey, Connecticut, Massachusetts).

LawJobs WWW

<http://www.lawlib.wuacc.edue/postlaw/joblists.htm>

Features various list and listserv links.

The Legal Employment Search Site

<http://www.legalemploy.com>

Connected to employment section of Yahoo.

K

APPENDIX

FINDING STATE LAW

State	Court Opinions	State Statutes
Alabama	http://www.alalinc.net/	
Alaska	http://www.alaska.net/~akctlib/	http://www.legis.state.ak.us/
Arizona		http://www.azleg.atate.az.us/
Arkansas	http://www.state.ar.us/supremecourt/	http://www.uark.edu/~govninfo/PAGES/
California	http://www.courtinfo.cagov/opinions/	http://www.leginfo.ca.gov/
Colorado	http://www.cobar.org/coappcts/	http://www.state.co.us/gov_dir/stateleg
Connecticut		http://www.cslnet.ctstateu.edu/statutes
Delaware		http://www.state.de.us/govern/governor/signed
Florida	http://www.justice.courts.sate.fl.us/	http://www.leg.state.fl.us/
Georgia	http://www.statega.us/Courts/Supreme	http://www.ganet.state.ga.us/services
Hawaii	http://www.hsba.org/Hawaii/Court/Curr/courin	http://www.hawaii.gov/lrb/dig/digdoc
Idaho	http://www.state.id.us/judicial/	http://www.state.id.us/legislat
Illinois	http://www.state.il.us/court/Opinions	http://housegop.state.il.us/illconst
Indiana	http://www.indiana.edu/law/incourts/	http://www.law.indiana.edu/law/research
Iowa		http://www2.legis.state.ia.us/Indices/
Kansas	http://www.law.ukans.edu/kscourts	http://www.ink.org/
Kentucky		http://www.lrc.state.ky.us/
Louisiana	http://www.gnofn.org/~lasc	
Maine	http://www.courts.state.me.us/	http://www.state.me.us/legis/
Maryland	http://www.mec.state.md.us/mec/	
Massachusetts	http://www.socialaw.com/	http://www.state.ma.us/legis
Michigan	http://www.sado.org/	http://www.umich.edu/~icle/
Minnesota	http://www.courts.state.mn.us	http://www.leg.sate.mn.us/leg/
Mississippi	http://www.mslawyer.com	http://www.mslawyer.com
Missouri	http://www.state.mo.us/sca	http://www.house.state.mo.us/
Montana		http://www.mt.gov/leg/
Nebraska	http://www.nol.org/legal/	http://unicam1.lcs.state.ne.us/

State	Court Opinions	State Statutes
Nevada		http://venus.optimis.com/
New Hampshire	http://www.state.nh.us/courts/	http://www.state.nh.us/gencourt/
New Jersey		http://www.njleg.state.nj.us/
New Mexico		http://www.nm.org/legislature
New York	http://www.law.cornell.edu/ny/ctap/	http://assembly.state.ny.us/ALIS
North Carolina	http://www.nando.net/insider/	http://www.legislature.state.nc.us/
North Dakota	http://sc3.court.state.nd.us/	http://www.state.nd.us/lr/
Ohio	http://www.sconet.ohio.gov/	http://winslo.ohio.gov/stgvleg
Oklahoma	http://www.ou.edu/okgov/	http://www.onenet.net/oklegal/statutes
Oregon	http://www.willamette.edu/~ccrowell/law/	http://www.leg.state.or.us/bills
Pennsylvania	http://www.cert.net/penna~courts	
Rhode Island		http://www.state.ri.us/wwwenact
South Carolina	http://www.law.sc.edu/opinions/	http://www.eginfo.state.sc.us/
South Dakota	http://www.sdbar.org/opinions/	
Tennessee	http://www.tsc.state.tn.us/opinions/	
Texas	http://www.window.state.tx.us/txgovinf/	http://lamb.sos.state.tx.us/
Utah	http://courtlink.utcourts.gov/	http://info.law.utah.edu/
Vermont	http://dol.state.vt.us/WWW_ROOT/	
Virginia	http://leg1.state.va.us/	http://senate.state.va.us/
Washington	http://www.wa.gov/courts	http://www.leg.wa.gov/
West Virginia	http://www.scusco.wvnet.edu/www/	
Wisconsin	http://www.wisbar.org/WIS/	http://badger.state.wi.us/agencies
Wyoming	http://courts.state.wy.us/	http://legisweb.state.wy.us/

GLOSSARY

abode residence

abuse physically harmful treatment

administrative enforcement action by a state or federal agency, rather than a court

Administrative Procedure Act a federal statute that allows a person appearing before a federal administrative agency to be represented by an attorney or, if the agency permits, “by other qualified individual”

adoption a legal procedure that makes a person or persons the legal parent or parents of a minor child who is not their natural child

adultery voluntary sexual intercourse of a married person with a person other than the offender’s spouse; one of the legal grounds to establish fault in a divorce proceeding

affidavit a signed, sworn statement

affidavit of publication a signed, sworn statement that a legal notice was printed

alienation of affection where a husband or wife contends that a third party has become romantically or sexually involved with his or her spouse and interfered with or broken up the marriage

alimony a sum of money, or other property, paid by a former spouse to the other former spouse for financial support, pursuant to a court order, temporary or final, in a divorce proceeding; also known as spousal maintenance or spousal support

alimony in gross a support payment made in one single payment; also known as lump sum alimony

allowable deductions taxes, debts, and allowable expenses that must be deducted from a spouse’s gross income to determine net income

annulment a judicial decision that a valid marriage does not exist or never existed between a person and another party

answer a document in which each of the allegations contained in the numbered paragraphs of a complaint is responded to

antenuptial agreement a contract entered into by the prospective spouses regarding their rights during the mar-

riage and in the event of a divorce; also known as a premarital or prenuptial agreement

appearance a document which states that a person has come into a court action as a party or an attorney representing a party

application for a prejudgment remedy where a party asks the court to take some action before a judgment in the case is rendered

arrearage amounts due by court order but unpaid; also known as back alimony

attorney client privilege the ethical rule which states that attorneys cannot disclose information related to the representation of a client, with certain exceptions

attorney’s fees the amount charged by a lawyer to a client for undertaking his or her case

authorized practice of law general criteria for obtaining a license to practice law required by state statute

bench trial a trial conducted before a judge, not a jury

beneficiary the person for whom a trustee holds legal title to property

best interest of the child standard which opened the contest for custody not only to fathers but also to other potential caregivers when the child’s well-being or interests could be best served by such a custody determination

billable hours the amount of time expended on a particular case, which can later be billed to that client

body the part of a complaint that contains the necessary factual information that establishes the jurisdiction of the court and identifies the grounds on which the divorce is being sought

boilerplate standardized agreement forms or clauses

breach of promise to marry where a man promises to marry a woman to gain favor and then fails to do so

Bureau of Vital Statistics form a form that is filled out and sent to the state in order to keep track of certain information regarding divorcing couples

buyout where the pension of one spouse is valued and the employee spouse gives cash to the nonemployee

spouse in exchange for any interest the nonemployee spouse may have in the employee spouse's pension

canon law the church's body of law or rules that determine man's moral obligations to man, to woman, and to God

capias a document empowering a sheriff to arrest a nonappearing, noncustodial parent and bring him or her to jail and to court

caption the initial section of a complaint which contains the names of the parties, the name and division of the court, the docket number or the return date of the action, and the date the complaint was drawn up

certification page accompanying a court document which states that a copy of the document was sent on a specific date to all counsel of record and *pro se* appearing parties (if any)

child protection agency a state agency charged with intervening when abuse or neglect is known or suspected

child support guidelines statutorily enacted formulas for determining the amount the noncustodial parent must pay for the support of each child

church courts courts that had the jurisdiction to hear some matters that could also be heard in the general state courts; however, they had exclusive jurisdiction over all family-related legal matters; also known as ecclesiastical courts

civil code the system of Spanish and French concepts of marital property law existing on the European mainland; also known as the *code civile*

claim for relief a statement filed by a party indicating what he or she wants in terms of a disposition in the case

clear and convincing evidence a high evidentiary standard of proof which requires a higher degree of certainty than the preponderance of evidence standard required for a judicial finding of neglect and lower than the beyond a reasonable doubt standard required in criminal matters

COBRA see *Consolidated Omnibus Budget Reconciliation Act*

code a set of written rules that establishes the guidelines for attorneys in their interactions with clients, courts, staff, and their obligations to the general public

cohabitation unmarried parties living together as if married

cohabitation agreement contracts entered into by unmarried persons who live together or plan to live together

combined net income the figure arrived at when each parent's net income is added together to determine child support; also known as total net income

community property a system of property division that assumes that both husband and wife contributed to the accumulation of marital assets

competency the duty to exercise a reasonable degree of care and skill commonly used by other attorneys engaged in a similar area of practice

complaint a grievance filed with a disciplinary body against an attorney; also, a document that commences an action when the opposing party is served; also known as a petition

compromise meeting someone halfway or giving up a position in exchange for something else

concurrent ownership when property is held by two or more persons together; also known as joint ownership

confidential information that is privileged; that is, not everyone is allowed access to it

confidentiality the ethical rule that protects communications between attorneys and their clients

confidentiality agreement an arrangement between an attorney and a client that certain information the client may divulge will be kept secret

conflict of interest any activity which may divide the attorney's loyalty and compromise his or her independent judgment

Consolidated Omnibus Budget Reconciliation Act 26 USC sec. 4980B(f) (COBRA) a federal law that enables a nonemployee spouse to continue his or her health insurance coverage provided by his or her spouse's employer for a period of three years after a divorce, as long as the nonemployee spouse pays the premium

constructive trust trust imposed by the court to avoid unjust enrichment when there is no intent between the parties

contempt where one party in an action does not comply with the court's order

contempt proceeding a civil proceeding that a party may commence to force the payor spouse to comply with the court's order when the party entitled to alimony is not paid

contested a disputed divorce trial

contingent fees an arrangement that entitles attorneys to a percentage of the financial outcome of the case, be it a judgment or settlement

cooling-off period the statutorily mandated time period following the initiation of divorce proceedings during which no final decree may be entered

cost of living clause provides for increases in the alimony payments due to the increase of payor's income and an increase in the cost of living, which obviates the

need for the parties to go back to court for modifications; also known as an escalation clause

costs of litigation include filing fees, sheriff's fees, deposition costs, expert witness fees, excessive photocopying and mailing costs

counterclaim an allegation presented by the defendant against the plaintiff

court calendar a small printed booklet or a set of pages that contains a number of cases listed according to parties and docket number and indicates the order in which cases will be heard

court-entry fee an amount of money required to file a complaint in court; also known as a filing fee

creditor a party to whom a sum of money is owed; also known as an obligee

cross-claim where the defendant-spouse assumes the role of a plaintiff by bringing a cross-action or countersuit for dissolution in which the party makes allegations and asks the court to grant him or her the relief of a dissolution or divorce and orders regarding custody, child support, alimony and property division; also known as a cross-complaint

cross-complaint see *cross-claim*

cross-examination when the opposing party's lawyer has the opportunity to question the opposing party

custodial parent the parent with whom the child primarily resides

custody affidavit an affidavit indicating that there is no other proceeding pending in another court that affects the custody of the minor children

debt a sum of money owed to another party

debtor the party responsible for the money that is owed; also known as an obligor

deep pocket the term applied to characterize the defendant in a lawsuit who has the financial resources to absorb a civil suit for monetary damages

default judgment where one party "wins" the dissolution or divorce suit by failure of the other party to act

default trial where one of the parties to an action has failed to appear at the scheduled trial date even though he or she has received proper notice of the proceedings; the court proceeds with a hearing and severs the marriage

defendant the party against whom an action is brought

deny in a court proceeding, where the judge refuses to grant the motion of one of the parties

deponent the person who is being questioned at a deposition

deposition a procedure in which one party's attorney orally questions an opposing party or a nonparty witness who has sworn under oath to answer all questions truthfully and accurately to the best of their knowledge and ability

desertion where one spouse abandons his or her duties toward the other; one of the legal grounds to establish fault in a divorce proceeding

deviation from the guideline when the parties agree between themselves that one or the other will pay more or less of the statutorily determined amount

direct examination the initial questioning by the party's own attorney

disciplinary board bodies that may sanction or punish attorneys for engaging in conduct that violates the state's code of professional conduct

disclosure the process of the parties revealing the full extent and current values of all their assets

discovery the process or stage in a civil litigation matter during which information is gathered by each party for use in their case against the other party

discovery tools ways in which an attorney may gather information for use in their case against another party

discretion of the court where the court has the power to make the alimony decision and an appellate court will not reverse that decision unless the judge somehow abused his or her discretion

dissipation depletion of the marital assets by waste

divorce the complete severance of the marital relationship allowing the parties to go their separate ways, including the right to remarry; also known as divorce *a vinculo matrimonii*

divorce a mensa et thoro divorce from bed and board, which did not sever the marriage, but just enabled the spouses to live separate and apart; also known as divorce

divorce a vinculo matrimonii the complete severance of the marital relationship allowing the parties to go their separate ways, including the right to remarry

divorce trial a trial in which both parties present their case to the court for its final hearing

docket control system a system of one or more calendars that helps an attorney keep track of the various court dates and deadlines

documents the papers associated with a case

domestic partnership an arrangement between couples who choose not to marry, but live together just like a married couple

duplicative referring to discovery, something that has already been asked for

earned retainer amount from the retainer which the attorney may keep in proportion to the amount of work expended on the client's file

ecclesiastical courts courts which had the jurisdiction to hear some matters that could also be heard in the general state courts; however, they had exclusive jurisdiction over all family-related legal matters; also known as church courts

Employee Retirement Income Security Act (ERISA) a federal statute passed in 1974 to protect employees and their pensions in case the employer declared bankruptcy or went out of business

equitable distribution a system allowing family courts to distribute property acquired during marriage on the basis of fairness, as opposed to ownership

equity the fair market value of the property minus any encumbrances

ERISA see *Employee Retirement Income Security Act*

escalation clause provides for increases in alimony payments due to the increase of payor's income and an increase in the cost of living, obviating the need for the parties to go back to court for modifications; also known as a cost of living clause

ethical wall when a paralegal cannot discuss a case with anyone in the office or have access to the file because of the possibility of conflict of interest

expert witness a person with specialized knowledge who is called to testify in court

express contract an agreement between the parties regarding the specific terms

expressed trusts a trust in which the terms have been negotiated by the parties

fair market value the price a buyer is willing to pay a seller in exchange for a property

family relations unit trained social workers who work for the court and conduct studies and applied child development and child psychology concepts to make custody and visitation recommendations; also known as the family services division

family services division see *family relations unit*

family support payments the term given to regular, periodic payments a payor spouse makes to the other spouse for the financial maintenance of both the ex-spouse and children

fees the amount the attorney will charge the client, based on the skill and experience of the attorney, the simplicity or complexity of the client's matter, cost of similar service in the community, the result obtained, the repu-

tation of the attorney and whether the matter is contested or uncontested

filing fee an amount of money required to file a complaint in court; also known as a court entry fee

final argument where each attorney argues why the court should rule in his or her client's favor

financial affidavits a sworn statement that enumerates the party's sources of income, earned and unearned, the party's expenses, necessary and optional, and all of the party's assets and liabilities

financial disclosure affidavit a sworn statement indicating the income, expenses, assets, and liabilities of a client

financial worksheet focuses on the client's income, expenses, assets, and liabilities, be they joint or separate; enables the attorney to begin assessing the extent of the marital estate

fixed schedule definite dates and time frames set aside for the purpose of allowing a noncustodial parent to visit with a child

flat fee an arrangement whereby a fixed dollar amount is agreed on and charged for the entire case

former client-current opponent upon an attorney or paralegal switching jobs, discovering that his or her new employer is representing the opponent in a former client's case

freelance paralegal independent contractor who works for a number of attorneys on an as-needed basis

front loading where the majority of property settlements in a divorce case are made in the first three years after the divorce

full faith and credit clause part of the United States Constitution that states that all states must honor the public acts, records, and judicial proceedings of every other state

fundamental right a right either expressed in the Constitution or one which the Supreme Court has stated may be inferred (implied) from the existing rights

grant in a court proceeding, when the judge decides to allow a party's request or motion

grievance a complaint filed with a disciplinary body against an attorney

grievance committees state bar associations that regulate the legal profession through disciplinary bodies

gross income the sum of all available sources of income

habeus corpus a document that allows an incarcerated party to be transported by a state's correctional department for trial

habitual intemperance where one party frequently and repeatedly becomes intoxicated; one of the legal grounds to establish fault in a divorce proceeding

hold harmless clause part of a separation agreement that indicates that a particular spouse will be responsible for a debt incurred during the marriage, that he or she will be solely responsible for its payment, and the other spouse shall be free and clear of any obligation regarding that debt

hotline twenty-four-hour telephone number established for the reporting of suspected child abuse and neglect

hourly basis billing the client for each hour of time spent working on a client's file, including, but not limited to, research, drafting documents, phone calls, travel, office visits, trial preparation, interviewing witnesses

implied-in-fact contract an agreement in which the intention of the parties is inferred by their conduct

implied partnership in the case of a cohabitating couple that works on a business enterprise owned by one of the parties, the court recognizes an implied partnership

implied trust a legal relationship in which the trustee holds legal title to property for the benefit of the beneficiary

incarceration in a penal institution confinement in a jail or prison; one of the legal grounds to establish fault in a divorce proceeding

incompatibility the no-fault ground for divorce; may be also be referred to as irreconcilable differences, irretrievable breakdown, or irremediable breakdown

initial client interview the first meeting between a client and an attorney or paralegal at which basic information to start work on a case is gathered

institutionalization for mental illness confinement to a sanitarium or asylum; one of the legal grounds to establish fault in a divorce proceeding

integrated bar associations affiliations of state bar associations where membership is mandatory

interrogatories requests for disclosure of all real and personal property owned by a spouse either in his or her own name or owned jointly with the spouse or with another person or entity

investigative child protection worker social worker representing the state child protection agency who makes the initial investigation of suspected child abuse or neglect and determines whether the state should take further action to protect the child

irreconcilable differences the no-fault ground for divorce; may be also be referred to as incompatibility, irretrievable breakdown, or irremediable breakdown

irrelevant not having anything to do with the matter at hand

irremediable breakdown the no-fault ground for divorce; may be also be referred to as incompatibility, irreconcilable differences, or irretrievable breakdown

irretrievable breakdown the no-fault ground for divorce; may be also be referred to as incompatibility, irreconcilable differences, or irremediable breakdown

IRS recapture rule applies when the parties do not wish to have alimony taxed as income or deducted; should be indicated in the settlement agreement

joint custody arrangement in which parents are equally responsible for the financial, emotional, educational, and health-related needs of their children

joint ownership when two or more persons hold property together; also known as concurrent ownership

joint tenancy with rights of survivorship where each party owns equal interests in property and at the death of one of the joint tenants, his or her interest automatically passes to the remaining parties

judgment the orders made by a court pursuant to the court's decision after trial; orders become a permanent part of the court file

judicial pretrial a conference that takes place before a judge, not a trial, to help the parties try to come to an agreement before the trial starts; also known as a pretrial conference

juris number the attorney's license number

legal advice advising a client of his or her specific legal rights and responsibilities, and either predicting an outcome or recommending that the client pursue a particular course of action

legal custody where both parents are the children's legal guardians and, as such, have the right to make decisions regarding their children's health, education, and welfare

legal grounds prior to the passage of no-fault divorce laws, where a spouse seeking a divorce was required to have facts proving that the other spouse was at fault

legal separation an action brought by a spouse who wishes to avoid the legal, social, or religious ramifications of a divorce but nevertheless wishes to live apart from his or her spouse

living expenses any monies for client's personal use that may not be advanced to a client by the attorney

lump sum alimony a support payment made in one single payment; also known as alimony in gross

malpractice negligent legal representation; representation that is below the standard of the professional community and could result in damage to the client

mandatory reporter a professional who is required by state statute to report suspected child abuse or neglect

marital assets the property acquired during a marriage

marital debts the liabilities incurred by either spouse during a marriage

marital settlement agreement a contract between spouses who are in the process of obtaining a divorce or a legal separation resolving the various legal issues that arise when a marriage is dissolving; also known as a property settlement, separation agreement, or settlement agreement

marriage statute a law passed by a state legislature which indicates who may marry

Married Women's Property Acts statutes that eliminated the disadvantages of married women and gave them the right to control their own earnings, bring lawsuits, be sued, own their own property, enter into contracts, and function in a legal capacity

mediation where the parties meet and attempt to resolve the pending issues surrounding their dissolution of marriage action with the assistance of a trained third party, either court-provided and free, or privately engaged and paid

memorandum of law a written document presented to the court that states a party's argument in a case and supports that argument with specific case law and statutes

mental cruelty where one spouse tries to cause psychological harm to the other; one of the legal grounds to establish fault in a divorce proceeding

merger an agreement that is no longer a contract between the two parties, but rather a court order, which can be modified or enforced through contempt of court proceedings

military affidavit a sworn statement that serves as proof that the defendant is currently not serving in one of the armed forces

miscegenation laws statute that prohibited interracial marriages

Model Rules of Professional Conduct a prototype for attorney's ethics written by the American Bar Association as a model for states that wish to adopt them

modification a change or adjustment to a previous court order

modification of alimony the issue of whether spousal support may be either increased or decreased after the original order has been entered due to a substantial change in one spouse's circumstances

motion a written document that asks the court to take some type of action

motion day one or two days of the week that courts set aside to hear motions brought before the court; also known as the short calendar

motion for alimony, *pendente lite* where a party to a dissolution proceeding asks the court to grant support payments to him or her for the duration of the case

motion for child support, *pendente lite* where a party to a dissolution proceeding asks the court to have the other party pay child maintenance for the duration of the case

motion for contempt a document that alerts the court to the other party's failure to comply with the court's earlier order and requests that the court provide relief

motion for custody, *pendente lite* where a party to a dissolution proceeding asks the court to have possession of the children for the duration of the case

motion for disclosure of assets requests disclosure of all real and personal property owned by a spouse either in his or her own name or owned jointly with the spouse or with another person or entity

motion for exclusive possession of the marital home, *pendente lite* where a party to a dissolution proceeding asks the court to allow him or her to stay in the home, without the other party, for the duration of the case

motion for modification where a party asks that orders entered by the court be changed when there has been a substantial change in the one of the party's circumstances from the time the original order was entered; also known as a motion to modify

motion for modification of child support a document requesting the court to order the noncustodial parent to pay higher periodic child support payments, so that less of the custodial parent's income will be needed for the child

motion for payment of mortgage payments and insurance premiums, *pendente lite* where a party to a dissolution proceeding asks the court to have the other party pay for certain bills for the duration of the case

motion for protective order where a party asks the court to prevent the other party from coming in contact with him or her

motion for use of the automobile, *pendente lite* where a party to a dissolution proceeding asks the court to have sole use of the couple's automobile for the duration of the case

motion to compel examination a document that asks the court to force the opposing party to submit to an examination

motion to freeze marital assets where a party asks the court to stop any transactions of the marital property from taking place

motion to modify where a party asks that orders entered by the court be changed when there has been a substantial change in one of the party's circumstances from the time the original order was entered; also known as a motion for modification

motion to modify alimony where a party asks that orders for spousal support entered by the court be changed when there has been a substantial change in one of the party's circumstances from the time the original order was entered; also known as a motion to modify support

motion to modify custody where a party asks that orders regarding child custody entered by the court be changed when there has been a substantial change in one of the party's circumstances from the time the original order was entered

motion to modify support where a party asks that orders for spousal support entered by the court be changed when there has been a substantial change in one of the party's circumstances from the time the original order was entered; also known as a motion to modify alimony

motion to modify visitation where a party asks that orders for child visitation entered by the court be changed when there has been a substantial change in one of the party's circumstances from the time the original order was entered

motion to restrain party from entering marital residence where a party asks the court to order that the other party be forbidden to enter the home where that party is living

moving party the person bringing the motion to court

multiple representation where one lawyer is hired to represent both parties to a case

National Association of Legal Assistants (NALA) voluntary national, state, and local paralegal association that has established its own ethical codes

National Federation of Paralegal Professionals (NFPA) voluntary national, state, and local paralegal association that has established its own ethical codes

neglect the failure of a parent to adequately provide for the child's nutritional, educational, or medical needs, or allowing a child to live in conditions that are unsanitary or dangerous

net income the dollar amount remaining after allowable deductions are subtracted from the gross income

no-fault divorce where one of the parties only has to allege that the marriage has broken down and that there

is no hope of reconciliation in order for the court to dissolve a marriage

no-fault divorce laws a modification of existing divorce laws to include the ground that the marital union or marital relationship had broken down irretrievably

nominal alimony a very small award of alimony, usually one dollar, which allows the recipient spouse to go back to court in the future, if necessary, to have the award modified

noncustodial parent the parent who does not have the child living with him or her on a full-time basis

nonmodifiable orders issued by a court that cannot be changed, regardless of the circumstances

nonvested in an employee pension plan, when the right to the employer portion of the funds has not yet attached

notice of deposition a document that alerts a party that he or she will be required to submit to examination by the opposing attorney

notice of filing of interrogatories a document which alerts the court that a party has asked the opposing party to answer a set of written questions

notice of responding to and/or objecting to interrogatories a document that alerts the court that the answering party has either answered the written questions or objects to one or more of the questions

notice to appear for a deposition to disclose assets a document which requires a party to appear in order to be questioned, under oath, on the previous disclosure to determine whether it completely revealed all of the party's assets

objection a document used when a party is in opposition to an action the court or the opposition has taken

obligee a party to whom a sum of money is owed; also known as a creditor

obligor the party responsible for money that is owed; also known as a debtor

offset when an employee-spouse agrees to transfer his or her interest in other marital assets in exchange for the full ownership of his or her pension benefits

order a statement that sets forth the judge's decision on a particular motion before the court

order of temporary custody a court order enabling the state to remove children from their home and place them in relative or foster care, when they are in imminent danger

overbroad too general; not specific enough

padding unjustifiably increasing the number of hours actually spent on a client's case

partnership during a marriage, when the efforts and personal and financial resources of the parties are pooled for the benefit of the marriage

paternity action where the petitioning party, usually the child's mother but occasionally the father, requests that the court hold a hearing to establish whether a particular man is the child's biological father

patria potestas in ancient civilizations, where fathers possessed absolute right to the possession of their children and could even sell the children or put them to death if desired

pendancy period the time during court proceedings before judgment is rendered

pendente lite alimony payments made during the pendency of the divorce with the purpose of providing temporary financial support for the spouse; also known as temporary alimony

pendente lite motion a motion granting relief only for the duration of the court action, before judgment is rendered

pension a retirement benefit acquired by an employee

periodic alimony term applied to court-ordered payments that are to be made to a spouse on a regular basis

permanent alimony the term applied to court-ordered payments that are to be made to a spouse on a regular and periodic basis and that terminate only on the death, remarriage, or cohabitation of the other spouse or on court order

personal property anything other than real property that can be touched and is movable

petition a document that commences the action when the opposing party is served; also known as a complaint

petitioner the party who brings a court action against another; also known as the plaintiff

physical cruelty actual personal violence of one spouse toward another; one of the legal grounds to establish fault in a divorce proceeding

physical custody when a parent has actual bodily possession of the children

plaintiff the party who brings a court action against another; also known as the petitioner

pleading documents that state the plaintiff's claims giving rise to the dissolution action and the defendant's responses or defenses to such claims

postmajority support agreements that frequently address payment for college tuition or other postsecondary education; payment for the maintenance of postmajority adult children with special needs; and payment of medical and dental insurance coverage for dependent adult children while they are students or when they are newly employed but not yet eligible for coverage at work

postnuptial agreement agreements made *after* the marriage has been performed in which the elements are similar to those of prenuptial agreements

prayer for relief the plaintiff's request for a dissolution and for court orders, when appropriate, regarding property distribution, alimony, child custody, and support of the minor children

premarital agreement a contract entered into by the prospective spouses regarding their rights during the marriage and in the event of a divorce; also known as an antenuptial agreement or prenuptial agreement

premium a monetary sum paid on an annual or installment basis for malpractice insurance coverage

prenuptial agreement a contract entered into by the prospective spouses regarding their rights during the marriage and in the event of a divorce; also known as an antenuptial agreement or premarital agreement

prereturn date relief where a plaintiff spouse needs and may seek immediate relief or court intervention as soon as the complaint is served

pretrial conference a meeting that takes place before a judge, not a trial, to help the parties try to come to an agreement before the trial starts; also known as a judicial pretrial

primary caregiver the individual who has done most of the significant parenting of the child since birth or for the several preceding years

privilege a court-conferred right permitting parties in a lawsuit to keep confidential any information exchanged between themselves and another person in instances where there was a special type of relationship between themselves and the other person that promoted an expectation of trust, confidentiality, and privacy

pro hac vice where a state may grant an attorney special permission to handle one particular case

pro per individuals who represent themselves in court; also known as *pro se*

pro se see *pro per*

property settlement a contract between spouses who are in the process of obtaining a divorce or a legal separation resolving the various legal issues that arise when a marriage is dissolving; also known as a marital settlement agreement, separation agreement, or settlement agreement

proposal a formal written indication, from one party to the opposing party, that communicates what the first party is seeking in terms of a divorce settlement

proposal letter details the client's position on the various legal issues to be resolved, such as property division, alimony, child custody, visitation and support, mainte-

nance of health and life insurance, distribution of debts and other liabilities, and counsel fees

psychological parent the parent who has had the child since the child's birth and/or who has spent the most meaningful time with the child, has bonded most fully with the child, and who has provided the most psychological nurturing of the child

public policy a belief generally held by a majority of the public as to the desirability or rightness or wrongness or certain behavior

Qualified Domestic Relations Order (QDRO) a court order served on the pension administrator ordering the plan to distribute a specified portion of the pension funds to the nonemployee spouse

quasi-contract contractual obligations that are imposed on the parties by the court, but no actual contract has been entered into by the parties

REA see *Retirement Equity Act*

real property land and anything affixed to it

reasonable rights of visitation a very flexible arrangement that requires the parties to work out their own schedule for visitation with children

reciprocity where one state may extend to attorneys in a different state the right to practice law in its jurisdiction in exchange for the other state's granting the same privilege to attorneys in their state

redirect after cross-examination, where the party's attorney may question the witness on any subject covered in the cross-examination testimony

rehabilitative alimony spousal support that is awarded for a limited period of time to give the spouse the opportunity to become self-sufficient

reimbursement alimony where a nondegreed spouse may be compensated for his or her contribution to the student spouse's attainment of an advanced degree that results in an enhanced earning capacity

release a document that indicates the client has given his or her attorneys the permission to disclose information to another party

request a document that asks the court to take some type of action; it is automatically granted by the court thirty days after filing, absent the opposing party's objection

request for admission where a party formally asks that an opposing party admit the truth of some fact or event that will inevitably be proved at trial

request for an order attacking known assets a document asking the court to freeze the opposing party's property in order to prevent dissipation of those assets

request for production of documents where a party formally asks that the other party present certain papers for use in a case

requesting party the party asking the court to take some action

requests for physical and mental examination where a party formally asks that the other party have a physical and/or psychiatric examination

respondeat superior the doctrine that states an employer is responsible for negligence and other torts committed by his or her employees when the acts are committed during the scope of their employment

respondent the party against whom an action is brought

responding party the party who must produce discovery documents

resulting trust where only one party provides the funds for property, while title is in the other party's name

retainer payment made in advance to an attorney

retainer agreement a contract between the law firm and the client whereby the law firm agrees to provide specified legal services in exchange for monetary compensation; also known as a retainer letter

retainer letter see *retainer agreement*

Retirement Equity Act of 1984 (REA) a federal statute determining the manner in which states may divide a pension at the time of divorce

return date a date in the near future by which the complaint must be returned to the court clerk's office and filed with the court

Revised Uniform Reciprocal Enforcement Act of 1968 (RURESA) where a custodial parent may ultimately obtain child support from the noncustodial parent residing in another state by instituting certain procedures

rule to show cause a document commanding a party to appear and argue as to why his or her motion should be granted

rules of court a jurisdiction's official publication containing the procedural codes of the jurisdiction

rules of ethics standards of conduct that a profession demands from its members

RURESA see *Revised Uniform Reciprocal Enforcement Act*

same-sex marriage marriage between two people of the same gender

sanctions punishment issued to attorneys for engaging in conduct that violates the state's code of professional conduct

second glance doctrine consideration of what circumstances exist at the time of enforcement of a prenuptial agreement in order to protect spouses from changes in circumstances that occurred since the date of the formation of the prenuptial agreement

secular courts courts administered by the state, as opposed to church, or ecclesiastical, courts

separate maintenance an action that affirms the continuation of a marriage and enforces the legal obligations of each spouse in the marriage

separate property property acquired by a spouse *prior* to the marriage, or after the marriage by a gift, inheritance, or will, designated to that particular spouse alone

separation agreement a contract between spouses who are in the process of obtaining a divorce or a legal separation resolving the various legal issues that arise when a marriage is dissolving; also known as a marital settlement agreement, property settlement, or settlement agreement

service by publication when a sheriff puts a legal notice in the newspaper in the city, town, or general area where the defendant was last known to reside, or where the defendant is now thought to be residing

service or performance agreement a document signed by a parent or parents in a child protection case in which the parent agrees to accomplish certain tasks

settlement the practice of negotiating areas of disagreement and, through compromise, reaching an agreement to present to the court

settlement agreement a contract between spouses who are in the process of obtaining a divorce or a legal separation resolving the various legal issues that arise when a marriage is dissolving; also known as a marital settlement agreement, property settlement or separation agreement

shared custody arrangement where a child resides with one parent for a certain number of days a week and a certain number of days with the other parent

sheriff's return a signed statement from a sheriff stating that he or she made proper service of a court document

short calendar one or two days of the week that courts set aside to hear motions brought before the court; also known as motion day

sole custody where one parent has exclusive custody of a child

sole ownership property owned by an individual alone

solicitation actively seeking persons in need of legal services, either by mail or in person, unless there already exists an attorney-client relationship or a family relationship

special defenses part of a defendant's answer in which he or she cites unusual or extraordinary circumstances as part of his or her defense

split custody arrangement where one parent has sole custody of the child for a part of each calendar year, and the other parent has sole custody for the remaining portion of the year

spousal maintenance a sum of money, or other property, paid by a former spouse to the other former spouse for financial support, pursuant to a court order, temporary or final, in a divorce proceeding; also known as alimony or spousal support

spousal support see *spousal maintenance*

standing a term that describes whether a party has a legal right to request an adjudication of the issues in a legal dispute

stipulations written agreements where parties agree that certain facts are true or that certain procedures will be followed

subpoena a legal document signed by an officer of the court that requires the person receiving it to appear under penalty of law at the time, date, and place indicated on the document

subscription part of a court document that confirms the truth and accuracy of allegations and confirms the veracity of the party making these allegations; also known as the verification

substantial change in circumstances an actual or assumed alteration in the financial status or capability of either party

summons a one-page preprinted form on which the names and addresses of parties and the name and address of the court are inserted and which directs the defendant to appear in court and answer allegations in a complaint

tax-deferred when taxes on the income produced by the pension will not be paid until the monies are withdrawn

temporary alimony payments made during the pendency of the divorce with the purpose of providing temporary financial support for a spouse; also known as *pendente lite* alimony

tenancy by the entirety a form of co-ownership which can only exist between a husband and wife and cannot be severed by either co-owner

tenancy in common where each party owns an undivided interest in certain property, has equal rights to its use and enjoyment, and may dispose of their share by gift, will, or sale

tender years doctrine the theoretical justification for the placing of children with their mother

termination of parental rights a court proceeding that severs the legal bonds between a parent and his or her biological child

testimony evidence given by a witness under oath or affirmation

theory of the case the legal justification for a client's position and for the relief he or she is seeking

third-party intervenor a party who is not one of the main parties in a dispute

time sheet a record of work performed on behalf of a client that will be billed to the client on a periodic basis; also known as a time slip

time slips see *time sheet*

title a party's ownership interest in property

total net income the figure arrived at when each parent's net income is added to determine child support; also known as combined net income

transcripts an official copy of the record of proceedings in a trial or hearing

transmutation the transformation of separate property to marital property

treatment worker social worker representing the state child protection agency who works with the family on a long-term basis by putting essential services in place and visiting the family on a regular basis

trial notebook a method of organizing the materials prepared for trial in a manner that makes them readily available for use at trial

trustee a person who holds legal title to property for the benefit of another

UIFSA see *Uniform Interstate Family Support Act*

unauthorized practice of law (UPL) when a nonattorney engages in any activity that the state UPL statute prohibits. Anyone engaging in the unauthorized practice of law can be prosecuted in criminal court

unconscionable something that is so wrong as to go against public policy

uncontested where neither party objects to the court granting a divorce and entering an order of marital dissolution

unearned retainer any part of a retainer left over after the attorney has completed his or her work that must be returned to the client

Uniform Interstate Family Support Act (UIFSA) where the noncustodial parent's state must honor the

original support and may not enter a new order or modify the existing order to conform to its guidelines for determining the amount of support

Uniform Premarital Agreement Act act that many states have adopted which sets forth the criteria for drafting a valid premarital agreement

Uniform Reciprocal Enforcement Act (URESA) where a custodial parent may ultimately obtain child support from the noncustodial parent residing in another state by instituting certain procedures

unity of spouses the English common law system used to determine the division of marital property on dissolution of a marriage, which stated that, on marriage, a husband and wife merged into a single legal entity—the husband

UPL see *unauthorized practice of law*

value what the marital property is worth

verification part of a court document that confirms the truth and accuracy of allegations and confirms the veracity of the party making these allegations; also known as the subscription

vested in an employee pension plan, entitles the employee to the employer's contribution portion provided that the employee has worked for the employer for an enumerated number of years

vicarious liability where an employer is responsible for negligence and other torts committed by his or her employees when the acts are committed during the scope of their employment

visitation the time allotted for the noncustodial parent to spend with the child

wage execution serves the purpose of facilitating alimony and child support payments through automatic deductions from the obligor's paycheck

waiver where the parties agree not to seek an alimony award in a divorce case

willful contempt when the recipient spouse proves that the payor spouse has the means to make weekly payments but purposefully and deliberately fails to do so

work product the notes, materials, memoranda, and written records generated by an attorney, as well as the written records of the attorney's mental impressions and legal theories concerning a case

This page intentionally left blank

INDEX

- ABA, 36
- Abode, 231
- Abuse, 383. *See also* State intervention in family matters
- Actions, 11–24
 - alienation of affection, 16
 - annulment, 17–23
 - breach of promise to marry, 12–16
 - common law marriage dissolutions, 16, 17
 - legal separation, 23, 24
 - paternity actions, 24
 - separate maintenance, 24
- Active listening skills, 192, 193
- Adkins v. Adkins*, 92
- Administrative enforcement, 174
- Administrative Procedure Act, 32
- Admission, 296, 297
- Adoption, 388–390
- Adultery, 86
- Affidavit, 231
- Affidavit of publication, 233
- Agency adoptions, 388, 389
- Alienation of affection, 16
- Alimony, 83–112
 - ability to pay, 93
 - attorney’s fees, 106
 - bankruptcy, 109
 - child support, and, 94
 - contempt proceeding, 110, 111
 - escalation/cost of living clauses, 105
 - final orders, 96–101
 - history of, 84–86
 - medical insurance, 105
 - modes of payment, 103
 - modification, 103–105, 364–366
 - permanent, 96
 - practical tips for clients, 109
 - property awards, and, 94
 - rehabilitative, 97–101
 - reimbursement, 101
 - spousal need, 94
 - statutes, 90, 91
 - tax consequences, 108, 109
 - temporary award, 95
 - termination of, 107
 - types of, 95–101
- Alimony in gross, 103
- Allowable deductions, 93
- Ambulance chasing, 52
- American Bar Association (ABA), 36
- Ancient Greece, 7
- Annulment, 17–23
- Answer, 233, 234, 250
- Antenuptial agreements. *See* Prenuptial agreements
- Appeal, 341
- Appearance, 232, 233, 249
- Application for a prejudgment remedy, 230
- Arrearage, 110, 111, 177, 365
- Attorney/client privilege, 41
- Attorney grievance proceedings, 37
- Attorney’s fees, 106
- Authorized practice of law, 29

- Baehr v. Miike*, 74–76
- Baker v. Vermont*, 77–80
- Bankruptcy, 109
- Barrett v. Vander-Muelen*, 15
- Bench trial, 333
- Beneficiary, 71
- Bennett v. Bennett*, 118
- Best interest of the child, 147
- Best interest standard, 147–149
- Billable hours, 51
- Body, 227, 257
- Bohemians, 17
- Boilerplate, 320
- Breach of promise to marry, 12–16
- Bureau of Vital Statistics forms, 340, 356
- Bureaus of Support Enforcement, 174
- Buyout, 133

- California's Proposition 22, 80
Campbell v. Campbell, 116
 Canon law, 84
 Capias, 173, 300
 Caption, 226, 227, 257
Castagno, 162
 Certification, 259
 Change of name, 203
Charpentier v. Charpentier, 157
 Child custody, 145–166
 best interest standard, 147, 149, 153–160
 child's preference, 155
 grandparents' rights, 162, 163
 historical overview, 146–149
 joint custody, 149, 150
 kidnapping/cross state lines, 370, 372
 modification, 368
 parental conduct, 156–160
 parents' physical/mental health, 156
 paternity issues, 165
 primary caretaker, 154
 psychological parent, 154
 religion, 156
 relocation of custodial parent, 368, 369
 shared physical custody, 150
 split custody, 150–152
 tender years doctrine, 147
 third party rights, 161–163
 unmarried parents, 163–165
 visitation rights, 160, 161
 Child neglect/abuse. *See* State intervention in family matters
 Child protection agency, 383
 Child support, 167–188
 administrative enforcement, 174, 175
 civil enforcement, 173, 174
 enforcement, 173–175
 federally mandated requirements, 169
 guidelines, 168
 interstate enforcement, 175
 modification, 171–173, 367, 368
 parental obligations, 169–171
 postmajority, 177, 178
 sample worksheets, 179–187
 support orders, 177
 visitation rights, and, 176, 177
 Child Support Enforcement and Establishment of Paternity Act, 174
 Child support guidelines, 168, 261, 407–426
 Church courts, 84
 Civil code, 127
 Claim for relief, 340, 351
 Clear and convincing evidence, 388
Click, 139
 Client intake form, 190, 207–211
 Client interview, 189–223
 client's arrival, 193, 198
 concluding the interview, 194
 financial worksheet, 204, 212–219
 gathering information, 194, 199–203
 initial client intake form, 190, 207–211
 listening skills, 192, 193
 narrowing issues, 194
 preparation, 191–193, 198
 professionalism, 197
 purposes of initial interview, 191
 referrals for children, 196
 referring client to support services, 195
 releases, 204, 220, 221
 representing defendant spouse, 204
 retainer letter, 205, 206, 222
 trust/confidence, 192
 COBRA, 105
 Code, 36
 Cohabitation, 69–72, 104
 Cohabitation agreements, 69
Cohen v. Cohen, 121
 Combined net income, 169
 Common law marriage, 17
 Common law marriage dissolutions, 16, 17
 Communicating with opposing party, 46, 47
 Community property, 127–129
 Community property states, 127
 Competency, 47, 48
 Complaint, 36, 226–230, 236–243
 Compromise, 320
 Confidential, 293
 Confidentiality, 39–41, 204
 Confidentiality agreement, 293
 Conflict of interest, 41–46
 Connecticut child support and arrearage guidelines, 407–426
 Consolidated Omnibus Budget Reconciliation Act (COBRA), 105
 Constructive trust, 72
 Contempt, 233
 Contempt citation, 369
 Contempt hearing, 173

- Contempt proceeding, 110, 111
- Contested hearing, 336–338
- Contingent fee, 49
- Cooling-off period, 256
- Cost of living clause, 105
- Costs of litigation, 46
- Court calendar, 264, 277–280
- Court-entry fee, 231
- Court procedures, 3
- Creditor, 138
- Cross-complaint, 234, 251, 252
- Cross-examination, 298
- Crossing state lines, 370–372
- Current ownership, 114
- Custodial interference cases, 371
- Custodial parent, 150
- Custody. *See* Child custody
- Custody affidavit, 261, 340, 350

- Debt, 138
- Debtor, 138
- Deep pocket, 38
- Default judgment, 232
- Default trial, 334
- Defendant, 226
- Defendant spouse, 226
- Defense of Marriage Act (DOMA), 77
- Deny, 266
- Deponent, 298
- Deposition, 297–299
- Deposition expenses, 298
- Desertion, 86
- Deviation from the guidelines, 172
- Direct examination, 298
- Disciplinary boards, 36
- Disclosure, 66, 67, 125
- Disclosure of assets, 300, 301
- Discovery, 290
- Discovery process, 289–316
 - depositions, 297–299
 - financial affidavit, 301, 302
 - interrogatories, 290–293
 - motion for disclosure of assets, 300, 301
 - nonparty witnesses, 299, 300
 - request for admission, 296, 297
 - request for physical or mental examination, 294–296
 - request for production, 293, 294
- Discovery tools, 290
- Discretion of the court, 89
- Dissipation, 139–141, 230
- Dissolve, 341
- Distance learning, 510, 511
- Divorce, 84, 191
- Divorce *a mensa et thoro*, 84
- Divorce *a vinculo matrimonii*, 84
- Divorce of bed and board, 8
- Divorce trial, 333–362
 - contested hearing, 336–338
 - day of trial, 341
 - defined, 333
 - documents, 339, 340
 - final argument, 341
 - judgment, 341, 357–361
 - note-taking, 341
 - paralegal's role, 338–341
 - pretrial conference, 337, 338
 - testimony, 339
 - theory of the case, 338
 - transcript, 341
 - trial notebook, 339
 - uncontested hearing, 334–336
- DNA tissue analysis, 165
- Docket control system, 265
- Documents, 339, 340
- Dolan v. Dolan*, 134
- DOMA, 77
- Domestic partnership, 72
- Duplicative, 290

- Earned retainer, 49
- Ecclesiastical courts, 84
- Emotional aspects of divorce, 191
- Employee Retirement Income Security Act (ERISA), 133
- Enforcement of court orders, 369, 370
- English common law system, 126
- Equal Protection Clause, 203
- Equal Rights Amendment (ERA), 74
- Equitable distribution, 126, 127
- Equity, 123
- ERA, 74
- ERISA, 133
- Escalation clause, 105
- Establishment Clause, 156
- Ethical wall, 44

- Ethics, 36–48
 - communicating with opposing party, 46, 47
 - competence, 47, 48
 - confidentiality, 39–41
 - conflict of interest, 41–46
 - fees, 49–52
 - model codes, 36, 37
 - pro se* litigant, 47
 - solicitation, 52
- Evans v. Evans*, 99
- Expectations, 386
- Expert witnesses, 153
- Express contract, 71
- Expressed trust, 71

- Fair market value, 123
- Family law theory, 2
- Family relations unit, 153
- Family services division, 153
- Family support payments, 108
- Fee agreements, 50
- Fees
 - alimony, and, 106
 - contingent, 49
 - methods of calculating, 49–52
 - paralegal, 50
- Filing fee, 231
- Final argument, 341
- Financial affidavit, 301, 302, 313, 314
- Financial disclosure affidavit, 339, 348, 349
- Financial worksheet, 204, 212–219
- Fixed schedule, 160
- Flat fee, 49
- Former client-current opponent, 44
- Forum shopping, 371
- Freelance paralegals, 36
- Front loading, 108
- Full faith and credit clause, 76
- Fundamental right, 74

- Gathering information, 194, 199–203
- Gender discrimination laws, 203
- Geraldine L. Logan v. Hyatt Legal Plans, Inc.*, 45
- Gifts from client, 46
- Goodwill, 130–132, 142, 143
- Grant, 266
- Grievance, 36, 37
- Grievance committees, 36

- Gross income, 93
- Guardian *ad litem*, 385
- Guardianship of Sydney Simpson, et al., 159

- Habeas corpus*, 338
- Habitual intemperance, 86
- Harbin v. Harbin*, 155
- Henry VIII, 8
- Historical review, 7–11
- Hold harmless clause, 138
- Hold harmless provision, 327
- Hot line, 384
- Hourly basis, 49

- Implied-in-fact contract, 71
- Implied partnership, 71
- Implied trust, 71
- Incarceration in a penal institution, 86
- Incompatibility, 87
- Industrial Revolution, 9
- Information gathering, 194, 199–203
- Information release form, 220
- Initial client intake form, 190, 207–211
- Initial client interview, 191. *See also* Client interview
- Institutionalization for mental illness, 86
- Integrated bar associations, 36
- Integrity of the family, 382
- Interference with custodial rights, 371
- Internet web sites. *See* Web sites
- Interrogatories, 290–293, 304–306
- Interviewing the client. *See* Client interview
- Investigative child protection worker, 384
- Irreconcilable differences, 87
- Irrelevant, 290
- Irremediable breakdown, 87
- Irretrievable breakdown, 87
- IRS recapture rule, 108
- IV-D agencies, 174, 175

- James H. McMacklin v. Marianne C. McMacklin*, 50
- Joint custody, 149, 150
- Joint ownership, 114
- Joint stipulation, 297
- Joint tenancy, 115
- Judgment, 341, 357–361
- Judicial pretrial, 337

- Juris number, 228
- Jurisdictional requirement, 199

- Keedy v. Keedy*, 117
- Kidnapping, 370–372
- Kirkland v. Kirkland*, 97
- Knight, Pete, 80

- Lalone, 101
- Lawsuits of the Rich and Famous*, 89
- Legal advice, 32, 196
- Legal custody, 145
- Legal grounds, 86
- Legal research, 512
- Legal separation, 23, 24
- Listening skills, 192, 193
- Living expenses, 46
- Loaning money to client, 46
- Loving v. Virginia*, 74
- Lump sum alimony, 103
- Lupin v. Lupin*, 104

- Malpractice, 302, 303
- Malpractice insurance, 38
- Marital assets, 115, 129–137
- Marital debts, 119, 138
- Marital property, 121
- Marital settlement agreement. *See* Separation agreements
- Marriage of Anderson*, 137
- Marriage statute, 73
- Married Women’s Property Acts, 7, 86, 126
- Marvin v. Marvin*, 70–72
- Mediation, 4
- Medical examination, 294–296
- Medical information release form, 221
- Medical insurance, 105
- Memorandum of law, 301
- Mental cruelty, 86
- Merger, 319, 335
- Military affidavit, 335, 343, 344
- Miscegenation laws, 74
- Model Rules of Professional Conduct (MRPC), 36
- Model separation agreements, 320
- Modifiable terms of dissolution decree, 364–368
- Modification of alimony, 103–105, 364–366
- Modification of child support, 367, 368
- Modification of custody and visitation, 368
- Modifications, 363
- Motion days, 264
- Motion for alimony, 260, 267
- Motion for child support, 261, 269
- Motion for contempt, 173, 266, 284, 285, 369, 370, 374–380
- Motion for counsel fees, 262, 271
- Motion for custody, 260, 261, 268
- Motion for disclosure of assets, 230, 300, 301, 312
- Motion for exclusive possession of the marital residence, 262, 272
- Motion for modification, 266, 286, 287
- Motion for modification of child support, 172
- Motion for payment of mortgage payments and insurance premiums, 263, 274, 275
- Motion for protective order, 293
- Motion for use of motor vehicle, 262, 263, 273
- Motion for visitation, 262, 270
- Motion to compel examination, 295
- Motion to freeze marital assets, 263
- Motion to modify alimony, 365, 366, 373–376
- Motion to modify child support, 367, 368
- Motion to modify custody, 368
- Motion to modify visitation, 368
- Motion to open the judgment, 364
- Motion to restrain party from entering marital residence, 263, 276
- Motions. *See* *Pendente lite* motions, Postjudgment matters
- Moving party, 265
- MRPC, 36
- Multiple representation, 42

- Nadine O. Monroe v. Daniel B. Horwitch et al.*, 34
- NALA, 37
- NALA’s Model Standards and Guidelines for Utilization of Legal Assistants, 53–57
- Name change, 203
- National Association of Legal Assistants, Inc. (NALA), 37
- National Conference of Commissioners on Uniform State Laws, 175
- National Federation of Paralegal Associations (NFPA), 37
- Necessaries, 138
- Neglect, 383. *See also* State intervention in family matters
- Net income, 93

- NFPA, 37
 No-fault divorce, 24, 25
 No-fault divorce laws, 86
 Nominal alimony, 103
 Noncustodial parent, 150
 Nonmodifiable terms of dissolution decree, 364
 Nonparty witnesses, 299, 300
 Nonvested, 132
 Notice of deposition, 299, 300
 Notice of filing of interrogatories, 292
 Notice of responding to and/or objecting to
 interrogatories, 292
 Notice of trial date and pretrial conference, 345,
 346
 Notice to appear for a deposition to disclose assets,
 230
- Objections, 290
 Office procedures, 3
 Offset, 133
 Order, 258, 259
 Order to show cause, 233, 365, 373, 374
Orr v. Orr, 89, 106
 Overbroad, 290
- Padding, 52
 Paralegal fees, 50
 Paralegals
 deposition, 299
 initial screening process, 189, 190
 malpractice, 302, 303
 pendente lite motions, 263, 264
 separation agreement, 320, 321
 trial preparation, 338–340
Parens patriae, 383
 Parent locator services, 175
 Parental Kidnapping Prevention Act (PKPA), 371
 Partnership, 121
 Paternity actions, 24
 Paternity test, 165
Patria potestas, 146
Pendelton v. Fireman, 66
Pendente lite alimony, 95
Pendente lite motions, 255–288
 additional requirements, 260
 body, 257
 caption, 257
 certification, 259
 docket control system, 265
 hearing, 266
 order, 258, 259
 paralegal's role, 263, 264
 pre-motion agreement, 265
 subscription, 257, 258
 types of motions, 260–263, 266
 Pension, 132, 133
 Performance agreement, 384
 Periodic alimony, 103
 Permanent alimony, 96
 Personal property, 114
 Personal service, 231
Peters v. Hyatt Legal Services, 42
 Petition to adopt, 389
 Petitioner, 226
 Physical cruelty, 86
 Physical custody, 145
 PKPA, 371
 Plaintiff, 226
 Plaintiff spouse, 226
 Pleadings, 224–254
 answer, 233, 234, 250
 appearance, 232, 233, 249
 complaint, 226–230, 236–243
 cross-complaint, 234, 251, 252
 defined, 226
 responsive, 232
 service of process, 231, 233, 248
 temporary restraining order, 230, 231, 244–247
Posner v. Posner, 62
 Post-nuptial agreements, 61
 Postjudgment matters, 363–381
 enforcement of court orders, 369, 370
 kidnapping/crossing state lines, 370–372
 modifiable terms of dissolution decree, 364–368
 modification of alimony, 364–366
 modification of child support, 367, 368
 modification of custody and visitation, 368
 nonmodified terms of dissolution decree, 364
 relocation of custodial parent, 368, 369
 Postmajority child support, 177, 178
 Postmajority support agreements, 178
 Prayer for relief, 227, 228
 Premarital agreements. *See* Prenuptial agreements
 Premium, 38
 Prenuptial agreements, 61–69
 advice of independent counsel, 67
 disclosure, 66, 67
 documentation, 64, 65

- enforceability, 67–69
- fairness, 67
- intent of parties, 66
- jurisdiction, 68
- legal requirements, 64
- property distribution, and, 125
- sample agreement, 81
- Uniform Premarital Agreement Act, 65, 66
- voluntariness, 68
- who needs one, 65
- writing requirements, 66
- Preparation of legal documents/pleadings, 33
- Preprinted answer form, 250
- Preprinted complaint form, 229, 242, 243
- Prereturn date relief, 229, 230
- Pretrial conference, 337, 338
- Primary caretaker, 154
- Private adoption, 389, 390
- Private adoption agency, 389
- Privilege, 290, 291
- Pro hac vice*, 29
- Pro per*, 32
- Pro se*, 32
- Pro se* litigant, 47
- Probate court, 388
- Procedural rules, 225
- Production, 293, 294
- Professionalism, 197, 302
- Proof of service document, 248
- Property, 114
- Property and debt distribution, 113–144
 - community property, 127–129
 - contested agreement, 125, 126
 - dissipation of marital assets, 139–141
 - equitable distribution, 126, 127
 - goodwill, 130–132, 142, 143
 - marital assets, 115, 129–137
 - marital debts, 119, 138
 - pensions, 133–135
 - prenuptial agreements, 125
 - professional degree, 135, 136
 - separate vs. marital property, 120–123
 - tracing, 122
 - transmutation, 122
 - uncontested agreement, 125
 - valuation of assets, 123–125
- Property settlement. *See* Separation agreements
- Proposal, 317
- Proposal letter, 317
- Proposition 22, 80
- Protection of children. *See* State intervention in family matters
- Psychiatric examination, 294–296
- Psychological parent, 154
- Public adoption agencies, 389
- Public policy, 66
- QDRO, 133, 394–406
- QTIP, 65
- Qualified domestic relations order (QDRO), 133, 394–406
- Qualified terminal interest trust (QTIP), 65
- Quasi-contract, 71
- REA, 133
- Real property, 114
- Reasonable rights of visitation, 160
- Reciprocity, 29
- Reconciliation, 201
- Redirect, 298
- Referrals for children, 196
- Referring client to support services, 195
- Rehabilitative alimony, 97–101
- Reimbursement alimony, 101
- Releases, 40, 204, 220, 221
- Relocation of custodial parent, 368, 369
- Request, 295
- Request for admission, 296, 297, 309
- Request for an order attaching known assets, 230
- Request for physical or mental examination, 294–296, 308
- Request for production, 293, 294, 307
- Request for trial form, 342
- Requesting party, 293
- Respondet superior*, 38
- Respondent, 226
- Responding party, 293
- Responsive pleadings, 232
- Restraining order, 263, 276, 464–474
- Resulting trust, 71
- Retainer, 49
- Retainer agreement, 205, 222
- Retainer letter, 205, 206
- Retirement Equity Act (REA), 133
- Return date, 226
- Revised Uniform Reciprocal Enforcement of Support Act (RURESA), 175
- Rieger v. Abrams*, 13–15

- Right of survivorship, 115
- Rosenbloom*, 170
- Rule of ethics, 36
- Rules of court, 225
- RURESА, 175

- Same-sex marriage, 72–80
- Sanction, 36
- Second glance doctrine, 68
- Secular courts, 84
- Separate maintenance, 24
- Separate property, 120
- Separation agreement, 125
- Separation agreements, 317–332
 - advantages, 319, 320
 - basic clauses, 321–332. *See also* Separation agreements — clauses
 - finalizing the agreement, 321
 - merger, 319
 - model agreements, 320
 - paralegal’s role, 320, 321
 - sample agreement, 475–493
- Separation agreements — clauses
 - acknowledgment, 331, 332
 - alimony, 324
 - child support, 326, 327
 - custody and visitation, 326
 - disclosure, 328, 329
 - heading, 322
 - health insurance, 327
 - hold harmless provision, 327
 - identification, 322
 - irretrievable breakdown, 323
 - liabilities, 327, 328
 - miscellaneous clauses, 329, 330
 - personal property, 325
 - real property, 324
 - recitals, 322, 323
 - representation of the parties, 329
 - separation of the parties, 323
 - signature provisions, 330, 331
 - taxes, 328
- Service agreement, 384
- Service by publication, 233
- Service of process, 231, 233, 248
- Settlement, 4
- Settlement agreement, 125. *See also* Separation agreements
- Sexual relations with clients, 44

- Shared physical custody, 150
- Sheriff’s return, 231
- Short calendar, 264
- Signature, 257, 258
- Simpson, O. J., 158–160
- Social Security numbers, 200
- Soldiers and Sailors Relief Act, 335
- Sole custody, 147
- Sole ownership, 114
- Solicitation, 52
- Specific steps, 386
- Split custody, 150–152
- Spousal maintenance, 84. *See also* Alimony
- Spousal support, 84. *See also* Alimony
- Standing, 161
- Stanley v. Illinois*, 382
- State intervention in family matters, 382–390
 - detecting neglect/abuse, 383, 384
 - extension of commitment, 386
 - integrity of the family, 382
 - investigation of complaint, 384
 - order of temporary custody, 385
 - reunification of child with parents, 385–387
 - service agreement approach, 384
 - specific steps, 386
 - state’s obligation to protect children, 383
 - termination of parental rights, 387, 388
- State law (web sites), 515, 516
- Statute of Frauds, 66
- Stipulation regarding temporary support, 281–283
- Stipulations, 340
- Subpoena, 299, 311, 339, 347
- Subpoena duces tecum, 299
- Subscription, 228, 257, 258
- Substantial change in circumstances, 364, 366
- Summons, 226, 235
- Supervised visitation, 161
- Support. *See* Alimony, Child support
- Supreme court, 36
- Surrogates court, 388
- Szesny v. Szesny*, 119

- Tax deferred, 133
- Temporary custody, 385
- Temporary restraining order, 230, 231, 244–247
- Tenancy by the entirety, 115
- Tenancy in common, 114
- Tender years doctrine, 147
- Termination of parental rights, 387, 388

- Testimony, 339
- Theory of the case, 338
- Thibodeaux v. Thibodeaux*, 87
- Third-party intervenors, 162
- Time sheets, 51, 58
- Time slips, 51
- Title, 115
- Total net income, 169
- Tracing, 122
- Traczyk v. Traczyk*, 131
- Transcript, 341
- Transmutation, 122
- Treatment worker, 384
- Trial. *See* Divorce trial
- Trial notebook, 339, 340
- Trustee, 71
- Types of actions. *See* Actions

- UCCJA, 371
- UCCJEA, 371, 372, 494–509
- UIFSA, 175
- Unauthorized practice of law, 30–36
 - accepting/rejecting cases, 35
 - legal advice, 32
 - maintaining office to render legal services, 36
 - negotiating with opposing attorney, 35
 - preparation of legal documents/pleadings, 33
 - representing people in court, 32
 - setting/collecting fees, 36
- Unconscionable, 67, 335
- Uncontested, 318
- Uncontested hearing, 334–336
- Unearned retainer, 49
- Uniform Child Custody Jurisdiction Act (UCCJA), 371
- Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA), 371, 372, 494–509

- Uniform Interstate Family Support Act (UIFSA), 175, 444–463
- Uniform Premarital Agreement Act, 66, 67, 391–393
- Uniform Reciprocal Enforcement of Support Act (1968), 434–443
- Uniform Reciprocal Enforcement of Support Act (as amended in 1952 and 1958), 427–433
- Uniform Reciprocal Enforcement of Support Act (URESAs), 175
- Unity of spouses, 126
- Unsupervised visitation, 161
- UPL statutes, 30–32
- URESAs, 175

- Valuated, 132
- Value, 123
- Verification, 228
- Vested, 132
- Vicarious liability, 38
- Visitation rights, 160, 161, 176, 177, 368, 370
- Void marriage, 23
- Voidable marriage, 23

- Wage execution, 109, 340, 352–355
- Web sites
 - courts, 513
 - distance learning, 511
 - legal employment, 513
 - legal research, 512
 - professional associations, 513
 - state law, 515, 516
 - universities/law schools, 512
- Wightman v. Coates*, 12, 13
- Willful contempt, 111
- Work product, 37