

Subsecs. (d), (e). Pub. L. 105-374, §1(h), (i), substituted “custody or visitation determination” for “custody determination”.

Subsec. (g). Pub. L. 105-374, §1(j), which directed substitution of “custody or visitation determination” for “custody determination”, was executed by making the substitution in two places to reflect the probable intent of Congress.

Subsec. (h). Pub. L. 105-374, §1(k), added subsec. (h).

Statutory Notes and Related Subsidiaries

REPORT ON EFFECTS OF PARENTAL KIDNAPING LAWS IN DOMESTIC VIOLENCE CASES

Pub. L. 106-386, div. B, title III, §1303(a)–(c), Oct. 28, 2000, 114 Stat. 1512, provided that:

“(a) IN GENERAL.—The Attorney General shall—

“(1) conduct a study of Federal and State laws relating to child custody, including custody provisions in protection orders, the Uniform Child Custody Jurisdiction and Enforcement Act adopted by the National Conference of Commissioners on Uniform State Laws in July 1997, the Parental Kidnaping Prevention Act of 1980 [see Short Title of 1980 Amendments note set out under section 1305 of Title 42, The Public Health and Welfare] and the amendments made by that Act, and the effect of those laws on child custody cases in which domestic violence is a factor; and

“(2) submit to Congress a report describing the results of that study, including the effects of implementing or applying model State laws, and the recommendations of the Attorney General to reduce the incidence or pattern of violence against women or of sexual assault of the child.

“(b) SUFFICIENCY OF DEFENSES.—In carrying out subsection (a) with respect to the Parental Kidnaping Prevention Act of 1980 and the amendments made by that Act, the Attorney General shall examine the sufficiency of defenses to parental abduction charges available in cases involving domestic violence, and the burdens and risks encountered by victims of domestic violence arising from jurisdictional requirements of that Act and the amendments made by that Act.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$200,000 for fiscal year 2001.”

[For definitions of “domestic violence” and “sexual assault” as used in section 1303(a)–(c) of Pub. L. 106-386, set out above, see section 1002 of Pub. L. 106-386, set out as a note under section 10447 of Title 34, Crime Control and Law Enforcement.]

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Pub. L. 96-611, §7, Dec. 28, 1980, 94 Stat. 3568, provided that:

“(a) The Congress finds that—

“(1) there is a large and growing number of cases annually involving disputes between persons claiming rights of custody and visitation of children under the laws, and in the courts, of different States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States;

“(2) the laws and practices by which the courts of those jurisdictions determine their jurisdiction to decide such disputes, and the effect to be given the decisions of such disputes by the courts of other jurisdictions, are often inconsistent and conflicting;

“(3) those characteristics of the law and practice in such cases, along with the limits imposed by a Federal system on the authority of each such jurisdiction to conduct investigations and take other actions outside its own boundaries, contribute to a tendency of parties involved in such disputes to frequently resort to the seizure, restraint, concealment, and interstate transportation of children, the disregard of court orders, excessive relitigation of cases, obtain-

ing of conflicting orders by the courts of various jurisdictions, and interstate travel and communication that is so expensive and time consuming as to disrupt their occupations and commercial activities; and

“(4) among the results of those conditions and activities are the failure of the courts of such jurisdictions to give full faith and credit to the judicial proceedings of the other jurisdictions, the deprivation of rights of liberty and property without due process of law, burdens on commerce among such jurisdictions and with foreign nations, and harm to the welfare of children and their parents and other custodians.

“(b) For those reasons it is necessary to establish a national system for locating parents and children who travel from one such jurisdiction to another and are concealed in connection with such disputes, and to establish national standards under which the courts of such jurisdictions will determine their jurisdiction to decide such disputes and the effect to be given by each such jurisdiction to such decisions by the courts of other such jurisdictions.

“(c) The general purposes of sections 6 to 10 of this Act [enacting this section and section 663 of Title 42, The Public Health and Welfare, amending sections 654 and 655 Title 42, and enacting provisions set out as notes under this section, sections 663 and 1305 of Title 42, and section 1073 of Title 18, Crimes and Criminal Procedure] are to—

“(1) promote cooperation between State courts to the end that a determination of custody and visitation is rendered in the State which can best decide the case in the interest of the child;

“(2) promote and expand the exchange of information and other forms of mutual assistance between States which are concerned with the same child;

“(3) facilitate the enforcement of custody and visitation decrees of sister States;

“(4) discourage continuing interstate controversies over child custody in the interest of greater stability of home environment and of secure family relationships for the child;

“(5) avoid jurisdictional competition and conflict between State courts in matters of child custody and visitation which have in the past resulted in the shifting of children from State to State with harmful effects on their well-being; and

“(6) deter interstate abductions and other unilateral removals of children undertaken to obtain custody and visitation awards.”

STATE COURT PROCEEDINGS FOR CUSTODY DETERMINATIONS; PRIORITY TREATMENT; FEES, COSTS, AND OTHER EXPENSES

Pub. L. 96-611, §8(c), Dec. 28, 1980, 94 Stat. 3571, provided that: “In furtherance of the purposes of section 1738A of title 28, United States Code, as added by subsection (a) of this section, State courts are encouraged to—

“(1) afford priority to proceedings for custody determinations; and

“(2) award to the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, necessary travel expenses, attorneys’ fees, costs of private investigations, witness fees or expenses, and other expenses incurred in connection with such custody determination in any case in which—

“(A) a contestant has, without the consent of the person entitled to custody or visitation pursuant to a custody determination which is consistent with the provisions of such section 1738A, (i) wrongfully removed the child from the physical custody of such person, or (ii) wrongfully retained the child after a visit or other temporary relinquishment of physical custody; or

“(B) the court determines it is appropriate.”

§ 1738B. Full faith and credit for child support orders

(a) GENERAL RULE.—The appropriate authorities of each State—

(1) shall enforce according to its terms a child support order made consistently with this section by a court of another State; and

(2) shall not seek or make a modification of such an order except in accordance with subsections (e), (f), and (i).

(b) DEFINITIONS.—In this section:

(1) The term “child” means—

(A) a person under 18 years of age; and

(B) a person 18 or more years of age with respect to whom a child support order has been issued pursuant to the laws of a State.

(2) The term “child’s State” means the State in which a child resides.

(3) The term “child’s home State” means the State in which a child lived with a parent or a person acting as parent for at least 6 consecutive months immediately preceding the time of filing of a petition or comparable pleading for support and, if a child is less than 6 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 6-month period.

(4) The term “child support” means a payment of money, continuing support, or arrearages or the provision of a benefit (including payment of health insurance, child care, and educational expenses) for the support of a child.

(5) The term “child support order”—

(A) means a judgment, decree, or order of a court requiring the payment of child support in periodic amounts or in a lump sum; and

(B) includes—

(i) a permanent or temporary order; and

(ii) an initial order or a modification of an order.

(6) The term “contestant” means—

(A) a person (including a parent) who—

(i) claims a right to receive child support;

(ii) is a party to a proceeding that may result in the issuance of a child support order; or

(iii) is under a child support order; and

(B) a State or political subdivision of a State to which the right to obtain child support has been assigned.

(7) The term “court” means a court or administrative agency of a State that is authorized by State law to establish the amount of child support payable by a contestant or make a modification of a child support order.

(8) The term “modification” means a change in a child support order that affects the amount, scope, or duration of the order and modifies, replaces, supersedes, or otherwise is made subsequent to the child support order.

(9) The term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United States, and Indian country (as defined in section 1151 of title 18).

(c) REQUIREMENTS OF CHILD SUPPORT ORDERS.—A child support order made by a court of

a State is made consistently with this section if—

(1) a court that makes the order, pursuant to the laws of the State in which the court is located and subsections (e), (f), and (g)—

(A) has subject matter jurisdiction to hear the matter and enter such an order; and

(B) has personal jurisdiction over the contestants; and

(2) reasonable notice and opportunity to be heard is given to the contestants.

(d) CONTINUING JURISDICTION.—A court of a State that has made a child support order consistently with this section has continuing, exclusive jurisdiction over the order if the State is the child’s State or the residence of any individual contestant or the parties have consented in a record or open court that the tribunal of the State may continue to exercise jurisdiction to modify its order, unless the court of another State, acting in accordance with subsections (e) and (f), has made a modification of the order.

(e) AUTHORITY TO MODIFY ORDERS.—A court of a State may modify a child support order issued by a court of another State if—

(1) the court has jurisdiction to make such a child support order pursuant to subsection (i); and

(2)(A) the court of the other State no longer has continuing, exclusive jurisdiction of the child support order because that State no longer is the child’s State or the residence of any individual contestant and the parties have not consented in a record or open court that the tribunal of the other State may continue to exercise jurisdiction to modify its order; or

(B) each individual contestant has filed written consent with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume continuing, exclusive jurisdiction over the order.

(f) RECOGNITION OF CHILD SUPPORT ORDERS.—If 1 or more child support orders have been issued with regard to an obligor and a child, a court shall apply the following rules in determining which order to recognize for purposes of continuing, exclusive jurisdiction and enforcement:

(1) If only 1 court has issued a child support order, the order of that court must be recognized.

(2) If 2 or more courts have issued child support orders for the same obligor and child, and only 1 of the courts would have continuing, exclusive jurisdiction under this section, the order of that court must be recognized.

(3) If 2 or more courts have issued child support orders for the same obligor and child, and more than 1 of the courts would have continuing, exclusive jurisdiction under this section, an order issued by a court in the current home State of the child must be recognized, but if an order has not been issued in the current home State of the child, the order most recently issued must be recognized.

(4) If 2 or more courts have issued child support orders for the same obligor and child, and none of the courts would have continuing, exclusive jurisdiction under this section, a court having jurisdiction over the parties shall issue a child support order, which must be recognized.

(5) The court that has issued an order recognized under this subsection is the court having continuing, exclusive jurisdiction under subsection (d).

(g) **ENFORCEMENT OF MODIFIED ORDERS.**—A court of a State that no longer has continuing, exclusive jurisdiction of a child support order may enforce the order with respect to nonmodifiable obligations and unsatisfied obligations that accrued before the date on which a modification of the order is made under subsections (e) and (f).

(h) **CHOICE OF LAW.**—

(1) **IN GENERAL.**—In a proceeding to establish, modify, or enforce a child support order, the forum State's law shall apply except as provided in paragraphs (2) and (3).

(2) **LAW OF STATE OF ISSUANCE OF ORDER.**—In interpreting a child support order including the duration of current payments and other obligations of support, a court shall apply the law of the State of the court that issued the order.

(3) **PERIOD OF LIMITATION.**—In an action to enforce arrears under a child support order, a court shall apply the statute of limitation of the forum State or the State of the court that issued the order, whichever statute provides the longer period of limitation.

(i) **REGISTRATION FOR MODIFICATION.**—If there is no individual contestant or child residing in the issuing State, the 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 a State with jurisdiction over the nonmovant for the purpose of modification.

(Added Pub. L. 103-383, §3(a), Oct. 20, 1994, 108 Stat. 4064; amended Pub. L. 104-193, title III, §322, Aug. 22, 1996, 110 Stat. 2221; Pub. L. 105-33, title V, §5554, Aug. 5, 1997, 111 Stat. 636; Pub. L. 113-183, title III, §301(f)(2), Sept. 29, 2014, 128 Stat. 1944.)

Editorial Notes

AMENDMENTS

2014—Subsec. (b). Pub. L. 113-183, §301(f)(2)(C), inserted designations for pars. (1) to (9) and “The term” after each designation.

Subsec. (d). Pub. L. 113-183, §301(f)(2)(A), substituted “individual contestant or the parties have consented in a record or open court that the tribunal of the State may continue to exercise jurisdiction to modify its order,” for “individual contestant”.

Subsec. (e)(2)(A). Pub. L. 113-183, §301(f)(2)(B), substituted “individual contestant and the parties have not consented in a record or open court that the tribunal of the other State may continue to exercise jurisdiction to modify its order” for “individual contestant”.

1997—Subsec. (f)(4). Pub. L. 105-33, §5554(1), substituted “a court having jurisdiction over the parties shall issue a child support order, which must be recognized,” for “a court may issue a child support order, which must be recognized.”

Subsec. (f)(5). Pub. L. 105-33, §5554(2), inserted “under subsection (d)” after “jurisdiction”.

1996—Subsec. (a)(2). Pub. L. 104-193, §322(1), substituted “subsections (e), (f), and (i)” for “subsection (e)”.

Subsec. (b). Pub. L. 104-193, §322(2), inserted par. defining “child’s home State”.

Subsec. (c). Pub. L. 104-193, §322(3), inserted “by a court of a State” before “is made” in introductory provisions.

Subsec. (c)(1). Pub. L. 104-193, §322(4), inserted “and subsections (e), (f), and (g)” after “located”.

Subsec. (d). Pub. L. 104-193, §322(5), inserted “individual” before “contestant” and substituted “subsections (e) and (f)” for “subsection (e)”.

Subsec. (e). Pub. L. 104-193, §322(6), substituted “modify a child support order issued” for “make a modification of a child support order with respect to a child that is made” in introductory provisions.

Subsec. (e)(1). Pub. L. 104-193, §322(7), inserted “pursuant to subsection (i)” after “order”.

Subsec. (e)(2). Pub. L. 104-193, §322(8), inserted “individual” before “contestant” in subpars. (A) and (B) and substituted “with the State of continuing, exclusive jurisdiction for a court of another State to modify the order and assume” for “to that court’s making the modification and assuming” in subpar. (B).

Subsec. (f). Pub. L. 104-193, §322(10), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 104-193, §322(11), substituted “Modified” for “Prior” in heading and “subsections (e) and (f)” for “subsection (e)” in text.

Pub. L. 104-193, §322(9), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 104-193, §322(12), inserted “including the duration of current payments and other obligations of support” before comma in par. (2) and “arrears under” after “enforce” in par. (3).

Pub. L. 104-193, §322(9), redesignated subsec. (g) as (h).

Subsec. (i). Pub. L. 104-193, §322(13), added subsec. (i).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-183, title III, §301(f)(3)(B), Sept. 29, 2014, 128 Stat. 1945, provided that:

“(i) The amendments made by subparagraphs (A) and (B) of paragraph (2) [amending this section] shall take effect on the date on which the Hague Convention of 23 November 2007 on the International Recovery of Child Support and Other Forms of Family Maintenance enters into force for the United States [The Convention entered into force for the United States Jan. 1, 2017].

“(ii) The amendments made by subparagraph (C) of paragraph (2) [amending this section] shall take effect on the date of the enactment of this Act [Sept. 29, 2014].”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in enactment of title III of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5557 of Pub. L. 105-33, set out as a note under section 608 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1996 AMENDMENT

For effective date of amendment by Pub. L. 104-193, see section 395(a)–(c) of Pub. L. 104-193, set out as a note under section 654 of Title 42, The Public Health and Welfare.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Pub. L. 103-383, §2, Oct. 20, 1994, 108 Stat. 4063, provided that:

“(a) **FINDINGS.**—The Congress finds that—

“(1) there is a large and growing number of child support cases annually involving disputes between parents who reside in different States;

“(2) the laws by which the courts of different jurisdictions determine their authority to establish child support orders are not uniform;

“(3) those laws, along with the limits imposed by the Federal system on the authority of each State to take certain actions outside its own boundaries—

“(A) encourage noncustodial parents to relocate outside the States where their children and the custodial parents reside to avoid the jurisdiction of the courts of such States, resulting in an increase in the amount of interstate travel and communication required to establish and collect on child support orders and a burden on custodial parents that is expensive, time consuming, and disruptive of occupations and commercial activity;

“(B) contribute to the pressing problem of relatively low levels of child support payments in interstate cases and to inequities in child support payments levels that are based solely on the non-custodial parent’s choice of residence;

“(C) encourage a disregard of court orders resulting in massive arrearages nationwide;

“(D) allow noncustodial parents to avoid the payment of regularly scheduled child support payments for extensive periods of time, resulting in substantial hardship for the children for whom support is due and for their custodians; and

“(E) lead to the excessive relitigation of cases and to the establishment of conflicting orders by the courts of various jurisdictions, resulting in confusion, waste of judicial resources, disrespect for the courts, and a diminution of public confidence in the rule of law; and

“(4) among the results of the conditions described in this subsection are—

“(A) the failure of the courts of the States to give full faith and credit to the judicial proceedings of the other States;

“(B) the deprivation of rights of liberty and property without due process of law;

“(C) burdens on commerce among the States; and

“(D) harm to the welfare of children and their parents and other custodians.

“(b) STATEMENT OF POLICY.—In view of the findings made in subsection (a), it is necessary to establish national standards under which the courts of the various States shall determine their jurisdiction to issue a child support order and the effect to be given by each State to child support orders issued by the courts of other States.

“(c) PURPOSES.—The purposes of this Act [enacting this section and provisions set out as a note under section 1 of this title] are—

“(1) to facilitate the enforcement of child support orders among the States;

“(2) to discourage continuing interstate controversies over child support in the interest of greater financial stability and secure family relationships for the child; and

“(3) to avoid jurisdictional competition and conflict among State courts in the establishment of child support orders.”

§ 1738C. Certain acts, records, and proceedings and the effect thereof

(a) IN GENERAL.—No person acting under color of State law may deny—

(1) full faith and credit to any public act, record, or judicial proceeding of any other State pertaining to a marriage between 2 individuals, on the basis of the sex, race, ethnicity, or national origin of those individuals; or

(2) a right or claim arising from such a marriage on the basis that such marriage would not be recognized under the law of that State on the basis of the sex, race, ethnicity, or national origin of those individuals.

(b) ENFORCEMENT BY ATTORNEY GENERAL.—The Attorney General may bring a civil action in the appropriate United States district court against any person who violates subsection (a) for declaratory and injunctive relief.

(c) PRIVATE RIGHT OF ACTION.—Any person who is harmed by a violation of subsection (a) may bring a civil action in the appropriate United States district court against the person who violated such subsection for declaratory and injunctive relief.

(d) STATE DEFINED.—In this section, the term “State” has the meaning given such term under section 7 of title 1.

(Added Pub. L. 117–228, § 4, Dec. 13, 2022, 136 Stat. 2305.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1738C, added Pub. L. 104–199, § 2(a), Sept. 21, 1996, 110 Stat. 2419, related to effect not required to be given to certain acts, records, and proceedings of another jurisdiction regarding marriage between persons of the same sex, prior to repeal by Pub. L. 117–228, § 3, Dec. 13, 2022, 136 Stat. 2305.

§ 1739. State and Territorial nonjudicial records; full faith and credit

All nonjudicial records or books kept in any public office of any State, Territory, or Possession of the United States, or copies thereof, shall be proved or admitted in any court or office in any other State, Territory, or Possession by the attestation of the custodian of such records or books, and the seal of his office annexed, if there be a seal, together with a certificate of a judge of a court of record of the county, parish, or district in which such office may be kept, or of the Governor, or secretary of state, the chancellor or keeper of the great seal, of the State, Territory, or Possession that the said attestation is in due form and by the proper officers.

If the certificate is given by a judge, it shall be further authenticated by the clerk or prothonotary of the court, who shall certify, under his hand and the seal of his office, that such judge is duly commissioned and qualified; or, if given by such Governor, secretary, chancellor, or keeper of the great seal, it shall be under the great seal of the State, Territory, or Possession in which it is made.

Such records or books, or copies thereof, so authenticated, shall have the same full faith and credit in every court and office within the United States and its Territories and Possessions as they have by law or usage in the courts or offices of the State, Territory, or Possession from which they are taken.

(June 25, 1948, ch. 646, 62 Stat. 947.)

HISTORICAL AND REVISION NOTES

Based on title 28, U.S.C., 1940 ed., § 688 (R.S. § 906).

Words “Possession of the United States” were substituted for “or any country subject to the jurisdiction of the United States.”

Words “or copies thereof” were added in two places. Copies have always been used to prove records and books under section 688 of title 28, U.S.C., 1940 ed., and the addition of these words clarifies the former implied meaning of such section.

In the first paragraph of the revised section words “a judge of a court of record” were substituted for words “the presiding justice of the court” and in the second paragraph “judge” was substituted for “presiding justice” for convenience and without change of substance.