

Calendar No. 604

103D CONGRESS
2D SESSION

S. 922

[Report No. 103-361]

A BILL

To provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought or consents to the seeking of the modification in that court.

AUGUST 25 (legislative day, AUGUST 18), 1994

Reported with an amendment

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IN THE SENATE OF THE UNITED STATES

MAY 6 (legislative day, APRIL 19), 1993

Ms. MOSELEY-BRAUN (for herself, Mr. LEVIN, Mr. SHELBY, Mrs. FEINSTEIN, and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

AUGUST 25 (legislative day, AUGUST 18), 1994

Reported by Mr. BIDEN, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To provide that a State court may not modify an order of another State court requiring the payment of child support unless the recipient of child support payments resides in the State in which the modification is sought or consents to the seeking of the modification in that court.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Full Faith and Credit
5 for Child Support Orders Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

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

8 (1) there is a large and growing number of
9 child support cases annually involving disputes be-
10 tween parents who reside in different States;

11 (2) the laws by which the courts of different ju-
12 risdictions determine their authority to establish
13 child support orders are not uniform;

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

17 (A) encourage noncustodial parents to relo-
18 cate outside the States where their children and
19 the custodial parents reside to avoid the juris-
20 diction of the courts of such States, resulting in
21 an increase in the amount of interstate travel
22 and communication required to establish and
23 collect on child support orders and a burden on
24 custodial parents that is expensive, time con-

1 suming, and disruptive of occupations and com-
2 mercial activity;

3 (B) contribute to the pressing problem of
4 relatively low levels of child support payments
5 in interstate cases and to inequities in child
6 support payments levels that are based solely on
7 the noncustodial parent's choice of residence;

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

10 (D) allow noncustodial parents to avoid the
11 payment of regularly scheduled child support
12 payments for extensive periods of time, result-
13 ing in substantial hardship for the children for
14 whom support is due and for their custodians;
15 and

16 (E) lead to the excessive relitigation of
17 cases and to the establishment of conflicting or-
18 ders by the courts of various jurisdictions, re-
19 sulting in confusion, waste of judicial resources,
20 disrespect for the courts, and a diminution of
21 public confidence in the rule of law; and

22 (4) among the results of the conditions de-
23 scribed in this subsection are—

1 (A) the failure of the courts of the States
2 to give full faith and credit to the judicial pro-
3 ceedings of the other States;

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

6 (C) burdens on commerce among the
7 States; and

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

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

16 (c) PURPOSES.—The purposes of this Act are—

17 (1) to facilitate the enforcement of child sup-
18 port orders among the States;

19 (2) to discourage continuing interstate con-
20 troversies over child support in the interest of great-
21 er financial stability and secure family relationships
22 for the child; and

23 (3) to avoid jurisdictional competition and con-
24 flict among State courts in the establishment of
25 child support orders.

1 **SEC. 3. FULL FAITH AND CREDIT FOR CHILD SUPPORT**
 2 **ORDERS.**

3 (a) **IN GENERAL.**—Chapter 115 of title 28, United
 4 States Code, is amended by inserting after section 1738A
 5 the following new section:

6 **“§ 1738B. Full faith and credit for child support**
 7 **orders**

8 “(a) **DEFINITIONS.**—In this section—

9 “(1) ‘child’ means—

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

11 “(B) a person 18 or more years of age

12 with respect to whom a child support order has

13 been issued pursuant to the laws of a State;

14 “(2) ‘child’s State’ means the State in which a
 15 child resides;

16 “(3) ‘child support’ means a payment of money,
 17 continuing support, or arrearages or the provision of
 18 a benefit (including health insurance) for the sup-
 19 port of a child;

20 “(4) ‘child support order’—

21 “(A) means a judgment, decree, or order
 22 of a court requiring the payment of child sup-
 23 port in periodic amounts or in a lump sum; and

24 “(B) includes—

25 “(i) a permanent or temporary order;

26 and

1 “(ii) an initial order or a modification
2 of an order;

3 “(5) ‘contestant’ means—

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

5 “(i) claims a right to receive child
6 support;

7 “(ii) is a party to a proceeding that
8 may result in the issuance of a child sup-
9 port order; or

10 “(iii) is under a child support order;
11 and

12 “(B) a State or political subdivision of a
13 State to which the right to obtain a child sup-
14 port order has been assigned;

15 “(6) ‘court’ means a court, administrative proc-
16 ess, or quasi-judicial process of a State that is au-
17 thorized by State law to establish the amount of
18 child support payable by a contestant or make a
19 modification of a child support order;

20 “(7) ‘modification’ means a change in a child
21 support order that affects the amount, scope, or du-
22 ration of the order and modifies, replaces, super-
23 sedes, or otherwise is made subsequent to the child
24 support order; and

1 “(8) ‘State’ means a State of the United
2 States, the District of Columbia, the Commonwealth
3 of Puerto Rico, the territories and possessions of the
4 United States, and Indian country (as defined in
5 section 1151 of title 18).

6 ~~“(b) GENERAL RULE.—~~The appropriate authorities
7 of each State—

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

11 ~~“(2) shall not seek or make a modification of~~
12 such an order except in accordance with subsection
13 ~~(e).~~

14 ~~“(c) REQUIREMENTS OF CHILD SUPPORT ORDERS.—~~
15 A child support order made is made consistently with this
16 section if—

17 ~~“(1) a court that makes the order, pursuant to~~
18 the laws of the State in which the court is located—

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

21 ~~“(B) has personal jurisdiction over the~~
22 contestants; and

23 ~~“(2) reasonable notice and opportunity to be~~
24 heard is given to the contestants.

1 “(d) CONTINUING JURISDICTION.—A court of a
2 State that has made a child support order consistently
3 with this section has continuing, exclusive jurisdiction over
4 the order if the State is the child’s State or the residence
5 of any contestant unless the court of another State, acting
6 in accordance with subsection (e), has made a modification
7 of the order.

8 “(e) AUTHORITY TO MODIFY ORDERS.—A court of
9 a State may make a modification of a child support order
10 with respect to a child that is made by a court of another
11 State if—

12 “(1) the court has jurisdiction to make such a
13 child support order; and

14 “(2)(A) the court of the other State no longer
15 has continuing, exclusive jurisdiction of the child
16 support order because that State no longer is the
17 child’s State or the residence of any contestant; or

18 “(B) each contestant has filed written consent
19 to that court’s making the modification and assum-
20 ing continuing, exclusive jurisdiction over the order.

21 “(f) ENFORCEMENT OF PRIOR ORDERS.—A court of
22 a State that no longer has continuing, exclusive jurisdic-
23 tion of a child support order may enforce the order with
24 respect to unsatisfied obligations that accrued before the

1 date on which a modification of the order is made under
 2 subsection (e).”.

3 (b) ~~TECHNICAL AMENDMENT.~~—The chapter analysis
 4 for chapter 115 of title 28, United States Code, is amend-
 5 ed by inserting after the item relating to section 1738A
 6 the following new item:

“1738B. Full faith and credit for child support orders.”.

7 **SECTION 1. SHORT TITLE.**

8 *This Act may be cited as the “Full Faith and Credit*
 9 *for Child Support Orders Act”.*

10 **SEC. 2. FINDINGS AND PURPOSES.**

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

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

15 (2) *the laws by which the courts of different ju-*
 16 *risdictions determine their authority to establish child*
 17 *support orders are not uniform;*

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

21 (A) *encourage noncustodial parents to relo-*
 22 *cate outside the States where their children and*
 23 *the custodial parents reside to avoid the jurisdic-*
 24 *tion of the courts of such States, resulting in an*
 25 *increase in the amount of interstate travel and*

1 communication required to establish and collect
2 on child support orders and a burden on custo-
3 dial parents that is expensive, time consuming,
4 and disruptive of occupations and commercial
5 activity;

6 (B) contribute to the pressing problem of
7 relatively low levels of child support payments in
8 interstate cases and to inequities in child sup-
9 port payments levels that are based solely on the
10 noncustodial parent's choice of residence;

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

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

19 (E) lead to the excessive relitigation of cases
20 and to the establishment of conflicting orders by
21 the courts of various jurisdictions, resulting in
22 confusion, waste of judicial resources, disrespect
23 for the courts, and a diminution of public con-
24 fidence in the rule of law; and

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

3 (A) the failure of the courts of the States to
4 give full faith and credit to the judicial proceed-
5 ings of the other States;

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

8 (C) burdens on commerce among the States;
9 and

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

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

18 (c) *PURPOSES.*—The purposes of this Act are—

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

21 (2) to discourage continuing interstate controver-
22 sies over child support in the interest of greater finan-
23 cial stability and secure family relationships for the
24 child; and

1 (3) to avoid jurisdictional competition and con-
 2 flict among State courts in the establishment of child
 3 support orders.

4 **SEC. 3. FULL FAITH AND CREDIT FOR CHILD SUPPORT**
 5 **ORDERS.**

6 (a) *IN GENERAL.*—Chapter 115 of title 28, United
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 8 the following new section:

9 **“§ 1738B. Full faith and credit for child support or-**
 10 **ders**

11 “(a) *GENERAL RULE.*—The appropriate authorities of
 12 each State—

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

16 “(2) shall not seek or make a modification of
 17 such an order except in accordance with subsection
 18 (e).

19 “(b) *DEFINITIONS.*—In this section:

20 “‘child’ means—

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

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

1 *“‘child’s State’ means the State in which a child*
2 *resides.*

3 *“‘child support’ means a payment of money,*
4 *continuing support, or arrearages or the provision of*
5 *a benefit (including payment of health insurance,*
6 *child care, and educational expenses) for the support*
7 *of a child.*

8 *“‘child support order’—*

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

12 *“(B) includes—*

13 *“(i) a permanent or temporary order;*
14 *and*

15 *“(ii) an initial order or a modification*
16 *of an order.*

17 *“‘contestant’ means—*

18 *“(A) a person (including a parent) who—*

19 *“(i) claims a right to receive child sup-*
20 *port;*

21 *“(ii) is a party to a proceeding that*
22 *may result in the issuance of a child sup-*
23 *port order; or*

24 *“(iii) is under a child support order;*
25 *and*

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

4 “‘court’ means a court or administrative agency
5 of a State that is authorized by State law to establish
6 the amount of child support payable by a contestant
7 or make a modification of a child support order.

8 “‘modification’ means a change in a child sup-
9 port order that affects the amount, scope, or duration
10 of the order and modifies, replaces, supersedes, or oth-
11 erwise is made subsequent to the child support order.

12 “‘State’ means a State of the United States, the
13 District of Columbia, the Commonwealth of Puerto
14 Rico, the territories and possessions of the United
15 States, and Indian country (as defined in section
16 1151 of title 18).

17 “(c) REQUIREMENTS OF CHILD SUPPORT ORDERS.—
18 A child support order made is made consistently with this
19 section if—

20 “(1) a court that makes the order, pursuant to
21 the laws of the State in which the court is located—

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

24 “(B) has personal jurisdiction over the con-
25 testants; and

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

3 “(d) *CONTINUING JURISDICTION*.—A court of a State
4 that has made a child support order consistently with this
5 section has continuing, exclusive jurisdiction over the order
6 if the State is the child’s State or the residence of any con-
7 testant unless the court of another State, acting in accord-
8 ance with subsection (e), has made a modification of the
9 order.

10 “(e) *AUTHORITY TO MODIFY ORDERS*.—A court of a
11 State may make a modification of a child support order
12 with respect to a child that is made by a court of another
13 State if—

14 “(1) the court has jurisdiction to make such a
15 child support order; and

16 “(2)(A) the court of the other State no longer has
17 continuing, exclusive jurisdiction of the child support
18 order because that State no longer is the child’s State
19 or the residence of any contestant; or

20 “(B) each contestant has filed written consent to
21 that court’s making the modification and assuming
22 continuing, exclusive jurisdiction over the order.

23 “(f) *ENFORCEMENT OF PRIOR ORDERS*.—A court of
24 a State that no longer has continuing, exclusive jurisdiction
25 of a child support order may enforce the order with respect

1 *to nonmodifiable obligations and unsatisfied obligations*
 2 *that accrued before the date on which a modification of the*
 3 *order is made under subsection (e).*

4 “(g) *CHOICE OF LAW.—*

5 “(1) *IN GENERAL.—In a proceeding to establish,*
 6 *modify, or enforce a child support order, the forum*
 7 *State’s law shall apply except as provided in para-*
 8 *graphs (2) and (3).*

9 “(2) *LAW OF STATE OF ISSUANCE OF ORDER.—*
 10 *In interpreting a child support order, a court shall*
 11 *apply the law of the State of the court that issued the*
 12 *order.*

13 “(3) *PERIOD OF LIMITATION.—In an action to*
 14 *enforce a child support order, a court shall apply the*
 15 *statute of limitation of the forum State or the State*
 16 *of the court that issued the order, whichever statute*
 17 *provides the longer period of limitation.”.*

18 (b) *TECHNICAL AMENDMENT.—The chapter analysis*
 19 *for chapter 115 of title 28, United States Code, is amended*
 20 *by inserting after the item relating to section 1738A the*
 21 *following new item:*

“1738B. Full faith and credit for child support orders.”.

S 922 RS——2